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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.

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3. The important elements of typical Federal Register documents.

4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, December 6, 2005
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 1

RIN 3150–AH79

Statement of Organization and General Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is revising its regulations to reflect the renaming of the Office of the Chief Information Officer as the Office of Information Services, the establishment of the Office of Nuclear Security and Incident Response, the transfer of the responsibility for the allegations program from the Office of Nuclear Reactor Regulation to the Office of Enforcement, and other minor changes. These amendments are necessary to inform the public of administrative changes within the NRC.

EFFECTIVE DATE: November 16, 2005.

FOR FURTHER INFORMATION CONTACT: Alzonia Shepard, Senior Regulations Specialist, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone (301) 415–6864, e-mail *aws1@nrc.gov*.

SUPPLEMENTARY INFORMATION: On January 6, 2005, the NRC announced a realignment of functions of the Office of the Executive Director for Operations. In the realignment, the NRC renamed the Office of the Chief Information Officer as the Office of Information Services. On April 7, 2002, the Commission established the Office of Nuclear Security and Incident Response (NSIR). These amendments include a description of the duties of NSIR. These amendments also reflect the transfer of the allegations program from the Office of Nuclear Reactor Regulation to the Office of Enforcement, the replacement of the reference to the Small Business Regulatory Enforcement Act with the Congressional Review Act, corrections to the addresses for Regions II and III, as well as other minor changes.

Because these amendments constitute minor administrative changes to the regulations concerning agency organization, the notice and comment provisions of the Administrative Procedure Act do not apply under 5 U.S.C. 553(b)(A). The amendments are effective upon publication in the **Federal Register**. Good cause exists under 5 U.S.C 553(d) to dispense with the usual 30-day delay in the effective date of the final rule, because the amendments are of a minor and administrative nature dealing with changes to certain CFR sections, which do not require action by any person or entity regulated by the NRC. Further, the final rule does not change the substantive responsibilities of any person or entity regulated by the NRC.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain information collection requirements and therefore, is not subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects in 10 CFR Part 1

Organization and functions (Government Agencies).

■ For the reasons set forth in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Chapter 1.

CHAPTER 1 [NOMENCLATURE CHANGE]

■ 1. In 10 CFR Chapter 1, revise all references to the phrase ''Office of the Chief Information Officer'' to read ''Office of Information Services.''

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

■ 2. The authority citation for Part 1 continues to read as follows:

Authority: Secs. 23, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2033, 2201); sec. 29, Pub. L. 85–256, 71 Stat. 579, Pub. L. 95–209, 91 Stat. 1483 (42 U.S.C. 2039); sec. 191, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); Secs. 201, 203, 204, 205, 209, 88 Stat. 1242, 1244, 1245, 1246, 1248, as amended (42 U.S.C. 5841, 5843, 5844, 5845, 5849); 5 U.S.C. 552, 553; Reorganization Plan No. 1 of 1980, 45 FR 40561, June 16, 1980.

■ 3. In § 1.3, paragraph (c) is revised to read as follows:

§ 1.3 Sources of additional information.

* * * * *

(c) Information regarding the availability of NRC records under the Freedom of Information Act and Privacy Act of 1974 may be obtained from the Information and Records Services Division, Office of Information Services. NRC's regulations are published in the **Federal Register** and codified in Title 10, Chapter 1, of the Code of Federal Regulations. They may be viewed electronically at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. Final opinions made in the adjudication of cases are published in ''Nuclear Regulatory Commission Issuances,'' and are available on a subscription basis from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

■ 4. In § 1.5, paragraphs (b)(2) and (b)(3) are revised to read as follows:

§ 1.5 Location of principal offices and regional offices.

* * * * *

(b) * * *

(2) Region II, USNRC, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Suite 23 T85, Atlanta, GA 30303–8931.

(3) Region III, USNRC, 2443 Warrenville Road, Suite 210, Lisle, IL 60532–4351.

* * * * *

■ 5. In § 1.32, paragraph (b) is revised to read as follows:

§ 1.32 Office of the Executive Director for Operations.

* * * * *

(b) The EDO supervises and coordinates policy development and

operational activities in the following line offices; the Office of Nuclear Reactor Regulation, the Office of Nuclear Material Safety and Safeguards, the Office of Nuclear Regulatory Research, the Office of Nuclear Security and Incident Response, and the NRC Regional Offices; and the following staff offices: The Office of Enforcement, the Office of Administration, the Office of Information Services, the Office of Investigations, the Office of Small Business and Civil Rights, the Office of Human Resources, the Office of State and Tribal Programs, and other organizational units as shall be assigned by the Commission. The EDO is also responsible for implementing the Commission's policy directives pertaining to these offices.

* * * * *

■ 6. Section 1.33 is revised to read as follows:

§ 1.33 Office of Enforcement.

The Office of Enforcement—

(a) Develops policies and programs for enforcement of NRC requirements;

(b) Manages major enforcement action;

(c) Assesses the effectiveness and uniformity of Regional enforcement actions; and

(d) Manages the NRC allegation program.

■ 7. In § 1.34, paragraph (d) is revised to read as follows:

§ 1.34 Office of Administration.

* * * * *

(d) Develops and implements policies and procedures for the review and publication of NRC rulemakings, and ensures compliance with the Regulatory Flexibility Act and the Congressional Review Act, manages the NRC Management Directives Program, and provides translation services.

■ 8. Section 1.35 is revised to read as follows:

§ 1.35 Office of Information Services.

The Office of Information Services—

(a) Plans, directs, and oversees the NRC's information resources, including technology infrastructure and delivery of information management services, to meet the mission and goals of the agency;

(b) Provides principal advice to the Chairman to ensure that information technology (IT) is acquired and information resources across the agency are managed in a manner consistent with Federal information resources management (IRM) laws and regulations;

(c) Assists senior management in recognizing where information technology can add value while improving NRC operations and service delivery;

(d) Directs the implementation of a sound and integrated IT architecture to achieve NRC's strategic and IRM goals;

(e) Monitors and evaluates the performance of information technology and information management programs based on applicable performance measures and assesses the adequacy of IRM skills of the agency;

(f) Provides guidance and oversight for the selection, control and evaluation of information technology investments; and

(g) Provides oversight and quality assurance for the design and operation of the Licensing Support Network (LSN) services and for the completeness and integrity of the LSN database, ensures that the LSN meets the requirements of 10 CFR part 2, subpart J, concerning the use of the LSN in the Commission's high-level waste licensing proceedings, and provides technical oversight of DOE in the design, development, and operation of the LSN.

■ 9. In § 1.41, the section heading and the introductory text are revised to read as follows:

§ 1.41 Office of State and Tribal Programs.

The Office of State and Tribal Programs—

* * * * *

■ 10. Section 1.43 is revised to read as follows:

§ 1.43 Office of Nuclear Reactor Regulation.

The Office of Nuclear Reactor Regulation—

(a) Develops, promulgates and implements regulations and develops and implements policies, programs, and procedures for all aspects of licensing, inspection, and safeguarding of—

(1) Manufacturing, production, and utilization facilities, except for those concerning fuel reprocessing plants and isotopic enrichment plants;

(2) Receipt, possession, and ownership of source, byproduct, and special nuclear material used or produced at facilities licensed under 10 CFR part 50;

(3) Operators of such facilities;

(4) Emergency preparedness at such facilities; and

(5) Contractors and suppliers of such facilities.

(b) Identifies and takes action regarding conditions and licensee performance that may adversely affect public health and safety, the environment, or the safeguarding of nuclear reactor facilities;

(c) Assesses and recommends or takes action regarding incidents or accidents;

(d) Provides special assistance as required in matters involving reactor facilities exempt from licensing;

(e) Provides guidance and implementation direction to Regional Offices on reactor licensing, inspection, and safeguards programs assigned to the Region, and appraises Regional program performance in terms of effectiveness and uniformity;

(f) Performs other functions required for implementation of the reactor licensing, inspection, and safeguard programs; and

(g) Performs review and evaluation related to regulated facilities insurance, indemnity, and antitrust matters.

■ 11. Section 1.46 is added to read as follows:

§ 1.46 Office of Nuclear Security and Incident Response.

The Office of Nuclear Security and Incident Response—

(a) Develops overall agency policy and provides management direction for evaluation and assessment of technical issues involving security at nuclear facilities, and is the agency safeguards and security interface with the Department of Homeland Security (DHS), the Department of Energy (DOE), other agencies; and the international activities related to the security of radioactive material and nuclear facilities;

(b) Develops, in participation with domestic and international agencies, foreign policy guidance and provides international assistance in nuclear security and safeguards;

(c) Develops emergency preparedness policies, regulations, programs, and guidelines for both currently licensed nuclear reactors and potential new nuclear reactors;

(d) Provides technical expertise regarding emergency preparedness issues and interpretations; and

(e) Develops and directs the NRC program for response to incidents, and is the agency emergency preparedness and incident response interface with the DHS, the Federal Emergency Management Agency (FEMA) and other Federal agencies.

Dated at Rockville, Maryland, this 7th day of November, 2005.

For the Nuclear Regulatory Commission.

Luis A. Reyes,

Executive Director for Operations.

[FR Doc. 05–22672 Filed 11–15–05; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21714; Directorate Identifier 2005–NM–065–AD; Amendment 39–14374; AD 2005–23–16]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800, and –900 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. This AD requires modification of certain wire bundles located above the center fuel tank. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent chafed wire bundles near the center fuel tank, which could cause electrical arcing through the tank wall and ignition of fuel vapor in the fuel tank, and result in a fuel tank explosion.

DATES: This AD becomes effective December 21, 2005.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of December 21, 2005.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Binh Tran, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6485; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. That NPRM was published in the **Federal Register** on July 5, 2005 (70 FR 38636). That NPRM proposed to require modification of certain wire bundles located above the center fuel tank.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Request for Clarification of Correct Type of Material for Lacing Tape

One commenter states that the service bulletin referenced in the NPRM identifies an incorrect type of material for the lacing tape used to tie the subject wire bundles. The commenter reiterates the information in the service bulletin and notes that the material identified therein does not exist. The commenter asks for clarification of the correct type of material for the lacing tape.

We agree with the commenter that clarification is necessary. This AD now identifies the correct type of material for the lacing tape for which an incorrect material was specified in the service bulletin. Lacing tape part number (P/N) BMS 13–54, having Type I, Class 2, Finish C, Grade D, shown in sheet 3 of Figures 5 and 6 of the Accomplishment Instructions of the service bulletin, does not exist; the correct material is BMS 13–54, having Type II, Class 1, Finish D/C, Grade D, white or Type III, Class 1, Finish C, Grade D, white, any size. The manufacturer is aware of this discrepancy, agrees with the change, and has issued Boeing Information Notice (IN) 737–28–1209 IN 01, dated July 28, 2005, to inform operators of the error. We have included this information in paragraph (f) of this AD.

Request To Increase Work Hours

One commenter asks that the work hours specified to accomplish the modification be increased. The commenter states that the referenced service bulletin shows the work hours necessary as 40, but the NPRM specifies only 4 work hours.

We do not agree. The estimate of 40 work hours specified in the service bulletin includes time for gaining access and closing up. The cost analysis in AD rulemaking actions, however, typically does not include costs such as the time required to gain access and close up, time necessary for planning, or time necessitated by other administrative actions. Those incidental costs may vary significantly among operators and are almost impossible to calculate. We recognize that, in doing the actions required by an AD, operators may incur incidental costs in addition to the direct costs. However, the estimate of 4 work hours, as proposed and as specified in this AD, represents the time necessary to perform only the actions actually required by this AD. We have not changed the AD in this regard.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

We have changed this AD to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

There are about 1,636 airplanes of the affected design in the worldwide fleet. This AD affects about 650 airplanes of U.S. registry. The modification takes about 4 work hours per airplane, at an average labor rate of $65 per work hour. Required parts cost about $1,446 per airplane. Based on these figures, the estimated cost of the AD for U.S. operators is $1,108,900, or $1,706 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation

is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2005–23–16 Boeing: Amendment 39–14374. Docket No. FAA–2005–21714; Directorate Identifier 2005–NM–065–AD.

Effective Date

(a) This AD becomes effective December 21, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes; certificated in any category; as identified in Boeing Service Bulletin 737–28–1209, dated February 17, 2005.

Unsafe Condition

(d) This AD was prompted by the results of fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent chafed wire bundles near the center fuel tank, which could cause electrical arcing through the tank wall and ignition of fuel vapor in the fuel tank, and result in a fuel tank explosion.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Modification

(f) Within 60 months after the effective date of this AD: Modify the wire bundles located below the passenger compartment, above the center fuel tank, aft of station (STA) 540 through STA 601 inclusive, at right buttock line and left buttock line 24.82 in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–28–1209, dated February 17, 2005. Lacing tape part number (P/N) BMS 13–54, having Type I, Class 2, Finish C, Grade D, shown in sheet 3 of Figures 5 and 6 of the Accomplishment Instructions of the service bulletin, does not exist; the correct material is BMS 13–54, having Type II, Class 1, Finish D/C, Grade D, white, or Type III, Class 1, Finish C, Grade D, white, any size.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Material Incorporated by Reference

(h) You must use Boeing Service Bulletin 737–28–1209, dated February 17, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Renton, Washington, on November 7, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–22593 Filed 11–15–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19539; Directorate Identifier 2004–NM–06–AD; Amendment 39–14375; AD 2005–23–17]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 737 airplanes. This AD requires, for certain airplanes, a one-time detailed inspection for interference between a clamp assembly and the wires behind the P15 refuel panel, and corrective actions if necessary. For certain other airplanes, this AD requires a one-time detailed inspection for discrepancies of the wires behind the P15 refuel panel; and corrective and related investigative actions if necessary. This AD is prompted by evidence of chafed wiring behind the P15 refuel panel and arcing to the back of the P15 refuel panel and adjacent wing structure. We are issuing this AD to detect and correct chafing of the wiring behind the P15 refuel panel, which could lead to arcing and fire with consequent airplane damage and injury to refueling personnel.

DATES: This AD becomes effective December 21, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of December 21, 2005.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Sherry Vevea, Aerospace Engineer,

Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6514; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Boeing Model 737 airplanes. That NPRM was published in the **Federal Register** on November 5, 2004 (69 FR 64515). That NPRM proposed to require, for certain airplanes, a one-time detailed inspection for interference between a clamp assembly and the wires behind the P15 refuel panel, and corrective actions if necessary. For certain other airplanes, that NPRM proposed to require a one-time detailed inspection for discrepancies of the wires behind the P15 refuel panel; and corrective and related investigative actions if necessary.

Explanation of Service Information Revision

Since the issuance of the NPRM, the manufacturer has revised the service bulletins referenced in this AD. We have reviewed Boeing Special Attention Service Bulletins 737–28–1193 and 737–28–1200, both Revision 1, both dated July 28, 2005. We have determined that these revised service bulletins will neither increase the economic burden on any operator nor increase the scope of the AD and should be referenced as the appropriate sources of service information for accomplishing the requirements of the AD. Therefore, in the AD, we have revised paragraph (f) to specify the revised service bulletins, inserted new paragraph (g) to give credit for using the original issues of the service bulletins (which were referenced as the appropriate sources of service information for accomplishing the requirements of the AD) to accomplish the required actions before the effective date of the AD, and re-identified existing paragraph (g) to (h).

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments that have been submitted on the NPRM.

Request To Revise Inspection and Corrective Action

One commenter requests that paragraph (f)(2)(ii) of the NPRM be changed in the AD to read ''For Group 2 airplanes only as defined in Service Bulletin 737–28–1200: Perform a one-time detailed inspection for discrepancies of the wires in wire bundle W0024 to connector D04578P on the back of the P15 refuel panel and do any applicable corrective actions before further flight.'' The commenter states this change will provide appropriate operator guidance by tying the detailed inspection of Group 2 airplanes to the applicable service bulletin.

We partially agree. Paragraph (f)(2) of the AD clearly states that all applicable actions listed in paragraphs (f)(2)(i) and (f)(2)(ii) of this AD must be done in accordance with Boeing Special Attention Service Bulletin 737–28–1200, Revision 1, dated July 28, 2005. However, for clarity, as paragraph (f)(2)(i) of the NPRM refers to ''Service Bulletin 737–28–1200,'' we have revised paragraph (f)(2)(ii) of the AD to also refer to ''Service Bulletin 737–28–1200.''

Request for Credit for Visual Check

Three commenters request that the AD clarify that inspections accomplished prior to the effective date of the AD using the ''visual check'' criteria specified in Boeing Special Attention Service Bulletin 737–28–1193, dated April 24, 2003, satisfy the ''detailed inspection'' requirement of paragraph (f) of the NPRM. One commenter requests that the same clarification be applied for Boeing Special Attention Service Bulletin 737–28–1200, dated July 10, 2003. Another commenter requests that ''Note 1'' and all references to it be deleted from the AD. The commenters state that Note 1 could be interpreted so that only a detailed inspection as defined in the NPRM that is accomplished prior to the effective date of the AD shall receive credit in accordance with paragraph (e) of the AD. The commenters assert that the inspection criteria identified as a visual check in Boeing Special Attention Service Bulletin 737–28–1193 are equivalent to the detailed inspection criteria described in Note 1 of the NPRM, and therefore, applicable airplanes that have already accomplished the inspection in accordance with Special Attention Service Bulletin 737–28–1193 will not need to be re-inspected.

We partially agree. Airplanes that have received a visual check in accordance with Boeing Special Attention Service Bulletin 737–28–1193, dated April 24, 2003; or Boeing Special Attention Service Bulletin 737–28–1200, dated July 10, 2003; as applicable, prior to the effective date of this AD, may satisfy the requirement of this AD to perform a detailed inspection. If the visual check was performed to the same level of complexity and using equipment comparable to that specified for a detailed inspection as defined in Note 1 of the AD, credit is given according to paragraph (e) of the AD. However, if the visual check did not meet all the parameters defined by Note 1, additional work is necessary to comply with the requirements of the AD. Therefore, we do not agree that the specified visual check necessarily meets the requirements of a detailed inspection; nor do we agree that Note 1 and its applicable references should be deleted from the AD, as Note 1 clarifies what constitutes a detailed inspection. However, if anyone wishes to submit technical data demonstrating that they have performed a visual check that meets the requirements of a detailed inspection as defined in Note 1 of the AD, they may request approval of an alternative method of compliance (AMOC) in accordance with paragraph (h)(1) of the AD. We have not changed the AD in this regard.

Request for Revised Costs of Compliance

Two commenters request that we revise the costs of compliance. One commenter requests that we increase the number of work hours to reflect installation of Teflon sleeves around the wiring and revise the estimated cost accordingly. A second commenter states that it took 6 man-hours per airplane to accomplish the actions specified by the service bulletin, including operational tests. Though the second commenter made no request to change the work hours, we infer that the commenter wishes us to revise the estimated cost to reflect 6 man-hours.

We do not agree with this request. Costs of compliance are limited to only the actions required by the AD, which, in this case, are those actions related to the detailed inspection of the wires in wire bundle W0024 to connector D04578P on the back of the P15 refueling panel required by paragraph (f)(1) of the AD. The cost of any

''applicable corrective actions'' is conditional on the result of the inspection and, regardless of any AD direction, those actions must be performed to correct an identified unsafe condition to ensure airworthy operation of the airplane, as required by the Federal Aviation Regulations. Further, the number of work-hours listed in the AD is consistent with the number provided by the service bulletin. We have not changed the AD in this regard.

Request To Permit Concurrent Use of Information Notices

One commenter states that Boeing service bulletins listed in the NPRM have information notices (INs) issued against them that provide minor clarifications and revisions to materials and part numbers. The commenter requests that the final rule allow for the use of the INs with the respective service bulletins when accomplishing the requirements of the AD. The commenter states this would allow operators to take advantage of the changes in the INs without having to request an AMOC.

We concur that the applicable INs may be used with their respective Boeing service bulletins when accomplishing the requirements of the AD. Information Notices 737–28–1193 IN 01 and 737–28–1200 IN 01 were released on September 11, 2003, to provide alternate part numbers, and minor clarifications and revisions to materials and part numbers. The information in these INs was subsequently incorporated into Boeing Special Attention Service Bulletins 737–28–1193 and 737–28–1200, both Revision 1, both dated July 28, 2005. Therefore, we have revised paragraph (g) of the AD to give credit for using the above INs with Boeing Special Attention Service Bulletins 737–28–1193, dated April 24, 2003; or 737–28–1200, dated July 10, 2003; as applicable, for actions accomplished prior to the effective date of this AD.

Request To Reduce the Compliance Time

One commenter requests that the compliance time be reduced. The commenter states that the nature of the fault and hazard that may exist during ground and flight operations justifies reducing the 18 month compliance time specified in paragraph (f) of the NPRM. The commenter did not provide data to substantiate any reduction of the compliance time.

We do not agree to revise the compliance time. The P15 refueling panel is powered only when the refueling panel access door is open for refueling the airplane, so there is no risk imposed during flight operations. Further, the refueling panel is properly grounded to protect the operator from any shock hazard during refueling. Therefore, the unsafe condition does not warrant immediate action and reduced compliance time; however, operators are always free to accomplish the requirements of the AD at any time before the compliance time. We have not changed the AD in this regard.

Request To Increase the Compliance Time

One commenter requests that the compliance time be increased. The commenter states that Boeing Special Attention Service Bulletin 737–28–1200 recommends a 24-month compliance time and requests that the compliance time be increased to 24 months to align with current Model 737 Next Generation maintenance programs.

We do not agree. We considered the urgency associated with the unsafe condition and the practical aspects of accomplishing the required inspection within an interval that corresponds to the normal maintenance schedules of most affected operators and, with manufacturer concurrence, arrived at an appropriate compliance time of 18 months for all affected airplanes. Further, the manufacturer, in revising Special Attention Service Bulletin 737–28–1200, has reduced the recommended compliance time from 24 months to 18 months, which aligns with the compliance time proposed in the NPRM. In considering all these factors, we determined that this compliance time represents an appropriate interval during which the wiring behind the P15 refueling panel can be inspected and any necessary corrective action taken while still maintaining an adequate level of safety. However, under the provisions of paragraph (h)(1) of the AD, we may approve requests for adjustments to the compliance time if data are submitted to substantiate that such adjustments would provide acceptable levels of safety. In addition, if further technical data are presented that would justify a revised compliance time, we may consider further rulemaking on this issue. We have not changed the AD in this regard.

Clarification of AMOC Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Conclusion

We have carefully reviewed the available data, including the comments that have been submitted, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

This AD affects about 1,653 airplanes of U.S. registry and 4,254 airplanes worldwide. The inspections take about 3 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of this AD for U.S. operators is $322,335, or $195 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2005–23–17 Boeing: Amendment 39–14375. Docket No. FAA–2004–19539; Directorate Identifier 2004–NM–06–AD.

Effective Date

(a) This AD becomes effective December 21, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the Boeing airplanes listed in Table 1 of this AD, certificated in any category:

TABLE 1.—APPLICABILITY

Airplane	Line numbers
Model 737–100, –200, –200C, –300, –400, and –500 series airplanes	1 through 3132 inclusive.
Model 737–600, –700, –700C, –800, and –900 series airplanes	0001 through 1240 inclusive.

Unsafe Condition

(d) This AD was prompted by evidence of chafed wiring behind the P15 refuel panel and arcing to the back of the P15 refuel panel and adjacent wing structure. We are issuing this AD to detect and correct chafing of the wiring behind the P15 refuel panel, which could lead to arcing and fire with consequent airplane damage and injury to refueling personnel.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Inspection and Corrective Actions

(f) Within 18 months after the effective date of this AD, perform the following actions as applicable:

(1) For Model 737–100, –200, –200C, –300, –400, and –500 series airplanes: Perform a one-time detailed inspection of the wires in wire bundle W0024 to connector D04578P on the back of the P15 refuel panel for discrepancies, and do any applicable corrective and related investigative actions before further flight, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–28–1193, Revision 1, dated July 28, 2005.

(2) For Model 737–600, –700, –700C, –800, and –900 series airplanes: Perform all applicable actions listed in paragraphs (f)(2)(i) and (f)(2)(ii) of this AD in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–28–1200, Revision 1, dated July 28, 2005.

(i) For Group 1 and Group 2 airplanes as defined in Service Bulletin 737–28–1200: Perform a one-time detailed inspection for discrepancies of the clamp and T-bolt assembly on the wing thermal anti-ice duct near the P15 refuel panel and do any applicable corrective actions before further flight.

(ii) For Group 2 airplanes only as defined in Service Bulletin 737–28–1200: Perform a one-time detailed inspection for discrepancies of the wires in wire bundle W0024 to connector D04578P on the back of the P15 refuel panel and do any applicable corrective actions before further flight.

Note 1: For the purposes of this AD, a detailed inspection is: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Credit for Actions Done Previously

(g) Actions accomplished before the effective date of this AD in accordance with Boeing Special Attention Service Bulletin 737–28–1193, dated April 24, 2003; or Boeing Special Attention Service Bulletin 737–28–1200, dated July 10, 2003; as applicable; including Information Notices 737–28–1193 IN 01 and 737–28–1200 IN 01; both dated September 11, 2003; as applicable, are acceptable for compliance with the corresponding actions required by this AD.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Material Incorporated by Reference

(i) You must use Boeing Special Attention Service Bulletin 737–28–1193, Revision 1, dated July 28, 2005; or Boeing Special Attention Service Bulletin 737–28–1200, Revision 1, dated July 28, 2005; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on November 7, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–22591 Filed 11–15–05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22972; Directorate Identifier 2003–NM–265–AD; Amendment 39–14376; AD 2005–23–18]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F27 Mark 050 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Fokker Model F27 Mark 050 airplanes. This AD requires a one-time inspection of the bleed air supply ducts to determine if blanking plugs are present and a one-time inspection of the entire area of the engine nacelle for heat damage; and corrective actions if necessary. This AD also requires replacement of the blanking plugs with clamping devices. This AD results from heat damage in areas adjacent to the bleed air supply duct assembly. We are issuing this AD to prevent rupture of the bleed air supply duct, which could lead to hot bleed air leaking into the engine controls area and result in heat damage to control cables, electrical wiring, hydraulic components, and fuel lines, and consequent fire.

DATES: This AD becomes effective December 1, 2005.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of December 1, 2005.

We must receive comments on this AD by January 17, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this AD.

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The Civil Aviation Authority—The Netherlands (CAA–NL), which is the airworthiness authority for the Netherlands, notified us that an unsafe condition may exist on all Fokker Model F27 Mark 050 airplanes. The CAA–NL advises that an operator found heat damage in areas adjacent to the bleed air supply duct assembly while inspecting for hydraulic leakage in the engine controls area on a Model F27 Mark 050 airplane. The same operator also found a second airplane with heat damage after inspecting its remaining fleet. Further investigation revealed that the inner wall of the bleed air supply duct was ruptured, which caused bleed air to escape and blow out the three blanking plugs that are fitted on the outer wall of the bleed air supply duct. As a result, hot bleed air vented into the engine controls area through the holes in the outer wall (created by the blown out blanking plugs) of the bleed air supply duct. This condition, if not corrected, could result in heat damage to control cables, electrical wiring, hydraulic components, and fuel lines, and consequent fire.

Relevant Service Information

Fokker Services B.V. has issued Service Bulletin SBF50–36–006, dated October 1, 2001. The service bulletin describes the procedures for inspecting zones 431 and 441 of the engine controls area to determine if the blanking plugs are installed in place on the outer ducts of the bleed air supply duct assemblies and doing corrective actions if necessary. The corrective actions include the following:

- If the blanking plugs are missing and bleed air loss is evident (i.e., the bleed air supply duct has burned spots, discoloration, or deformation), visually inspecting the components adjacent to the bleed air supply duct assemblies for heat damage (part C of the accomplishment instructions) and replacing the blanking plugs of the bleed air supply duct with clamping devices (part D of the accomplishment instructions).
- If bleed air loss is not evident, replacing the blanking plugs of the bleed air supply duct with clamping devices.
- If there is leakage from the bleed air supply duct due to a ruptured inner duct, replacing the bleed air supply duct assembly with a serviceable bleed air supply duct assembly (i.e, one that has had the blanking plugs replaced with clamping devices).
- If there is a loss of corrosion-preventing compound from the engine control cables, cleaning the cables, inspecting for discoloration, and applying the corrosion-preventing compound.
- If advice is needed for repairing heat damage to a component, wiring, or structures, contacting the manufacturer for additional instructions.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The CAA–NL mandated the service information and issued Dutch airworthiness directive 2001–130, dated October 31, 2001, to ensure the continued airworthiness of these airplanes in the Netherlands.

FAA's Determination and Requirements of This AD

This airplane models is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA–NL has kept the FAA informed of the situation described above. We have examined the CAA–NL's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are issuing this AD to prevent rupture of the bleed air supply duct, which could lead to hot bleed air leaking into the engine controls area and result in heat damage to control cables, electrical wiring, hydraulic components, and fuel lines, and consequent fire. This AD requires accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between the AD and Service Bulletin.''

Difference Between the AD and Service Bulletin

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this AD would require repairing those conditions using a method that we or the CAA–NL (or its delegated agent) approve. In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this AD, a repair we or the CAA–NL approve would be acceptable for compliance with this AD.

Clarification of Inspection Terminology

The inspection and ''visual inspection'' specified in the Fokker service bulletin is referred to as a ''general visual inspection'' in this AD. We have included the definition for a general visual inspection in a note in this AD.

Costs of Compliance

None of the airplanes affected by this action are on the U.S. Register. All airplanes affected by this AD are currently operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, we consider this AD necessary to ensure that the unsafe condition is addressed if any affected airplane is imported and placed on the U.S. Register in the future.

If an affected airplane is imported and placed on the U.S. Register in the future, the required actions would take about 3 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the AD would be $195 per airplane.

FAA's Determination of the Effective Date

No airplane affected by this AD is currently on the U.S. Register. Therefore, providing notice and opportunity for public comment is unnecessary before this AD is issued, and this AD may be made effective in less than 30 days after it is published in the **Federal Register**.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed in the **ADDRESSES** section. Include ''Docket No. FAA–2005–22972; Directorate Identifier 2003–NM–265–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD that might suggest a need to modify it.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2005–23–18 Fokker Services B.V.: Amendment 39–14376. Docket No. FAA–2005–22972; Directorate Identifier 2003–NM–265–AD.

Effective Date

(a) This AD becomes effective December 1, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Fokker Model F27 Mark 050 airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from heat damage in areas adjacent to the bleed air supply duct assembly. We are issuing this AD to prevent rupture of the bleed air supply duct, which could lead to hot bleed air leaking into the engine controls area and result in heat damage to control cables, electrical wiring, hydraulic components, and fuel lines, and consequent fire.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

General Visual Inspection

(f) At the applicable compliance time specified in paragraph (f)(1) or (f)(2) of this AD, do a general visual inspection of the bleed air supply to determine if blanking plugs are present and a general visual inspection of the entire area of the engine nacelle for any heat damage, and do any corrective actions as applicable, by accomplishing all of the applicable actions specified in parts B and C of the Accomplishment Instructions of Fokker Service Bulletin SBF50–36–006, dated October 1, 2001; except as provided by paragraph (g) of this AD. Any corrective actions must be done before further flight.

Note 1: For the purposes of this AD, a general visual inspection is: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) For airplanes that have accumulated 20,000 total flight hours or more as of the effective date of this AD: Within 6 months after the effective date of this AD.

(2) For airplanes that have accumulated less than 20,000 total flight hours as of the effective date of this AD: Within 12 months after the effective date of this AD.

(g) If, during accomplishment of the corrective actions required by paragraph (f) of this AD, the service bulletin requires contacting the manufacturer for instructions on repairing heat damage to a component, wiring, or structure: Before further flight, repair according to a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Civil Aviation Authority—The Netherlands (or its delegated agent).

Modification

(h) Before further flight after accomplishing the inspection required by paragraph (f) of this AD: Replace the blanking plugs of the bleed air supply ducts with clamping devices, in accordance with Part D of the Accomplishment Instructions of Fokker Service Bulletin SBF50–36–006, dated October 1, 2001.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(j) Dutch airworthiness directive 2001–130, dated October 31, 2001, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use Fokker Service Bulletin SBF50–36–006, dated October 1, 2001, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on November 7, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–22589 Filed 11–15–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22427; Directorate Identifier 2004–NM–263–AD; Amendment 39–14373; AD 2005–23–15]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all British Aerospace Model BAC 1–11 200 and 400 series airplanes. This AD requires revising the airplane flight manual (AFM) to contain applicable AFM amendments, which advise the flightcrew of information pertaining to safely operating the fuel system. The AD also requires revising the FAA-approved maintenance program to include certain repetitive maintenance tasks intended to improve the safety of the fuel system. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent potential ignition sources inside the fuel system, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: This AD becomes effective December 21, 2005.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of December 21, 2005.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC.

Contact British Aerospace, Service Support, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to all British Aerospace Model BAC 1–11 200 and 400 series airplanes. That NPRM was published in the **Federal Register** on September 16, 2005 (70 FR 54671). That NPRM proposed to require revising the airplane flight manual (AFM) to contain applicable AFM amendments, which advise the flightcrew of information pertaining to safely operating the fuel system. The NPRM also proposed to require revising the FAA-approved maintenance program to include certain repetitive maintenance tasks intended to improve the safety of the fuel system.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Comments

We provided the public the opportunity to participate in the development of this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We have carefully reviewed the available data and determined that air

safety and the public interest require adopting the AD with the change described previously. We have determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
AFM Revision	1	$65	$65	11	$715
Maintenance Program Revision	1	65	65	11	715

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2005–23–15 British Aerospace Airbus Limited: Amendment 39–14373. Docket No. FAA–2005–22427; Directorate Identifier 2004–NM–263–AD.

Effective Date

(a) This AD becomes effective December 21, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all British Aerospace Model BAC 1–11 200 and 400 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to ensure that the flightcrew and maintenance personnel are advised of procedures pertaining to the safety of the fuel system. These procedures are needed to prevent potential ignition sources inside the fuel system, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Airplane Flight Manual and Maintenance Program Revisions

(f) Within 3 months after the effective date of this AD, do the actions specified in paragraphs (f)(1) and (f)(2) of this AD to improve the safety of the fuel system, in accordance with the Accomplishment Instructions of Airbus UK BAC One-Eleven Alert Service Bulletin 28–A–PM6057, Issue 1, dated May 10, 2004.

(1) Revise the airplane flight manual to include the applicable amendments advising the flightcrew of appropriate procedures to check for proper operation of the fuel system, and to address tripped circuit breakers, failure of a fuel pump in flight, and operations in a low-fuel situation, as specified in Table 2 (under Section 4.11) of the service bulletin.

Note 1: The actions required by paragraph (f)(1) of this AD may be done by inserting a copy of the applicable advance amendment bulletins (AABs) specified in Table 2 of Airbus UK BAC One-Eleven Alert Service Bulletin 28–A–PM6057, Issue 1, dated May 10, 2004, into the AFM. When information identical to that in the applicable AABs has been included in the general revisions of the AFM, the AABs no longer need to be inserted into the AFM.

(2) Revise the FAA-approved maintenance program to include all repetitive maintenance tasks specified in Table 1 (under Section 4.10.2.) of the service bulletin. Then, thereafter, comply with the requirements of these maintenance tasks at the interval specified in Table 1 of the service bulletin; except for airplanes that operate fewer than a total of 1,250 flight hours per year, accomplish the requirements of these maintenance tasks at the earlier of the times specified in columns 2 and 3 of Table 1 of the service bulletin. Where Table 1 of the service bulletin specifies a repetitive interval in ''hours,'' for the purposes of this AD, this means ''flight hours.'' Any applicable corrective actions must be done before further flight.

Note 2: After revising the maintenance program to include the required periodic maintenance tasks according to paragraph (f)(2) of this AD, operators do not need to make a maintenance log entry to show compliance with this AD every time those maintenance tasks are accomplished thereafter.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(h) British airworthiness directive G–2004–0012, dated June 21, 2004, also addresses the subject of this AD.

Material Incorporated by Reference

(i) You must use Airbus UK BAC One-Eleven Alert Service Bulletin 28–A–PM6057, Issue 1, dated May 10, 2004, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact British Aerospace, Service Support, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Renton, Washington, on November 7, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–22592 Filed 11–15–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–22421; Airspace Docket No. 05–ASW–1]

RIN 2120–AA66

Revision of Jet Routes J–8, J–18, J–19, J–58, J–76, J–104 and J–244; and VOR Federal Airways V–60, V–190, V–263 and V–611; Las Vegas, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This action changes the effective date of a final rule published in the **Federal Register** on October 18, 2005 (70 FR 60424), Airspace Docket No. 05–ASW–1. In that rule, the effective date was inadvertently published as December 22, 2005. This action changes the effective date to April 13, 2006.

EFFECTIVE DATE: In the final rule published October 18, 2005 (70 FR 60424), the effective date is corrected to read April 13, 2006.

FOR FURTHER INFORMATION CONTACT: Steve Rohring, Airspace and Rules, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On October 18, 2005, a final rule was published in the **Federal Register** (70 FR 60424), Airspace Docket No. 05–ASW–1. This rule revised Jet Routes J–8, J–18, J–19, J–58, J–76, J–104 and J–244; and VOR Federal Airways V–60, V–190, V–263 and V–611; Las Vegas, NM. In that rule, the effective date was inadvertently published as December 22, 2005. This action changes the effective date to April 13, 2006.

Delay of Effective Date

Accordingly, pursuant to the authority delegated to me, the effective date for Airspace Docket No. 05–ASW–1, as published in the **Federal Register** on October 18, 2005 (70 FR 60424), Airspace Docket No. 05–ASW–1, is hereby delayed from December 22, 2005 to April 13, 2006.

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

Issued in Washington, DC, on November 4, 2005.

Edith V. Parish,

Manager, Airspace and Rules.

[FR Doc. 05–22578 Filed 11–15–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740, 742, 772 and 774

[Docket No. 051028279–5279–01]

RIN 0694–AD57

Establishment of New License Exception for the Export or Reexport to U.S. Persons in Libya of Certain Items Controlled for Anti-Terrorism Reasons Only on the Commerce Control List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: In this interim rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to implement changes to export and reexport controls with respect to Libya. Specifically, in this rule, BIS establishes a License Exception authorizing the export or reexport to U.S. persons in Libya of certain items listed on the Commerce Control List and controlled for anti-terrorism (AT) reasons only. This rule is consistent with the President's decision to modify United States' sanctions against Libya, in response to Libya's continuing efforts to dismantle its weapons of mass destruction (WMD) and missile programs and its renunciation of terrorism.

DATES: This rule is effective November 16, 2005. Comments must be received on or before December 16, 2005.

ADDRESSES: Written comments on this rule may be sent to the Federal eRulemaking Portal: *http://www.regulations.gov*, or by e-mail to *publiccomments@bis.doc.gov*. Include RIN 0694–AD57 in the subject line of the message. Comments may be submitted by mail or hand delivery to Sheila Quarterman, Office of Exporter Services, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, ATTN: RIN 0694–AD57; or by fax: 202–482–3355.

Send comments regarding the collection of information to David Rostker, Office of Management and Budget (OMB), by e-mail to *David_Rostker@omb.eop.gov*, or by fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Joan Roberts, Director, Foreign Policy Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, Department of Commerce,

P.O. Box 273, Washington, DC 20044; Telephone: (202) 482–4252, or E-mail: *jroberts@bis.doc.gov*.

SUPPLEMENTARY INFORMATION:

Background

In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) by creating a new License Exception authorizing the export or reexport of certain items controlled for anti-terrorism (AT) reasons only on the Commerce Control List (CCL) to U.S. persons in Libya. In consultation with U.S. industry, BIS has identified certain items controlled for AT reasons only which are essential for undertaking business or professional activities, including humanitarian activities, in Libya. Excepting these items from license requirements, when consigned to and for use by U.S. persons or their employees only, would facilitate the ability of U.S. persons to do business in Libya without adversely jeopardizing U.S. national security or foreign policy interests with respect to Libya.

This rule is consistent with the President's April 23, 2004, decision to modify United States' sanctions against Libya, in response to Libya's continuing efforts to dismantle its weapons of mass destruction and missile programs and its renunciation of terrorism.

Establishment of New License Exception USPL

BIS has determined that a change in policy is warranted for certain AT-controlled items that are essential for U.S. persons conducting business or professional activities in Libya. In drafting this rule, BIS considered a range of items controlled for AT reasons only and identified those that could be excepted from license requirements when exported or reexported for the exclusive use of U.S. persons in Libya or their employees (within the scope of their employment). These items are widely available outside the United States, and have a low likelihood to contribute significantly to terrorism or WMD-related activities in Libya. Items classified under Export Control Classification Numbers (ECCNs) 2A994 (portable generators), 5A992 (encryption hardware), 5D992 (''Information Security'' ''software'' not controlled by 5D002) and 9A990 (diesel engines), and certain items classified under ECCNs 3A991 (electronic devices), 3A992 (electronic equipment), 3B992 (test and inspection equipment for electronic components), 4A994 (computers), 5A991 (telecommunications equipment) are eligible for new License Exception United States Persons In Libya (USPL), as set forth in new section 740.19 of the EAR, when those items are exported or reexported to Libya consigned to and for use by U.S. persons and their employees only. The definition of U.S. person set forth in part 772 of the EAR is applicable to this new provision.

Items exported or reexported to Libya pursuant to the new License Exception USPL may only be used by U.S. persons or by non-U.S. person employees within the scope of their employment and must remain under the control and supervision of the U.S. person employer. They may not be transferred to non-U.S. persons in Libya.

Additionally, items exported or reexported to Libya pursuant to License Exception USPL and not consumed or destroyed in the ordinary course of business may be returned to the United States without authorization from BIS, or such items may be reexported to a third country consistent with the provisions of the EAR applicable to such reexports, which in some cases may require authorization from BIS.

Libya remains on the list of state sponsors of terrorism, and, therefore, it is appropriate for the United States to continue to require a license for the export or reexport to non-U.S. persons in Libya of AT-controlled items, as set forth in section 742.20. Further, AT-controlled items not specifically identified as eligible under License Exception USPL continue to require a license if exported or reexported to U.S. persons in Libya.

Although the Export Administration Act of 1979 (EAA), as amended, expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (3 CFR 2001 Comp., p. 783 (2002)) as extended by the Notice of August 2, 2005 (70 FR 45273, August 5, 2005), continues the EAR in effect under the International Emergency Economic Powers Act (IEEPA).

Rulemaking Requirements

1. This interim rule has been determined to be not significant for the purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by the OMB under control numbers 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 58 minutes to prepare and submit form BIS–748. This rule is expected to result in a small decrease in license applications.

3. This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States (see 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

However, because of the importance of the issues raised by these regulations, this rule is being issued in interim form and BIS will consider comments in the development of the final regulations. Accordingly, the Department of Commerce (the Department) encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close December 16, 2005. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be

available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be available for public inspection.

The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays these public comments on BIS's Freedom of Information Act (FOIA) Web site at *http://www.bos.doc.gov/foia*. This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS's Office of Administration at (202) 482–0637 for assistance.

List of Subjects

15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Parts 742 and 774

Exports, Foreign trade.

15 CFR Part 772

Exports.

■ Accordingly, parts 740, 742, 772 and 774 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

PART 740—[AMENDED]

■ 1. The authority citation for 15 CFR part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 901–911, Pub. L. 106–387; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 2, 2005, 70 FR 45273 (August 5, 2005).

■ 2. Add new § 740.19 to read as follows:

§ 740.19 United States persons in Libya (USPL).

(a) *Scope.* This License Exception authorizes exports and reexports to U.S. persons in Libya of items controlled for AT reasons only under the following ECCNs as described:

(1) All items controlled under the following ECCNs:

(i) 2A994;

(ii) 5A992;

(iii) 5D992; and

(iv) 9A990.

(2) Other items, as follows:

(i) 3A991.a through 3A991.j, and 3A991.n;

(ii) 3A992.b.1, 3A992.b.2 and 3A992.c;

(iii) 3B992.b;

(iv) 4A994, for items with CTP levels up to 12,000 MTOPS; and

(v) 5A991.b.2, 5A991.b.3, 5A991.b.4, 5A991.b.7, 5A991.c.1 through c.9, 5A991.e, 5A991.g and 5A991.h.

(b) *Additional restrictions.* Items exported or reexported to Libya pursuant to this License Exception must be consigned to and for exclusive use in business or professional activities (including humanitarian activities) by U.S. persons or their employees only, and must remain under the control and supervision of the U.S. person employer.

(c) *Definition of U.S. person.* See part 772 of the EAR.

PART 742—[AMENDED]

■ 3. The authority citation for 15 CFR part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; Sec 1503, Pub. L. 108–11,117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of November 4, 2004, 69 FR 64637, 3 CFR, 2004 Comp., p. 303; Notice of August 2, 2005, 70 FR 45273 (August 5, 2005).

■ 4. Section 742.20 is amended by revising paragraph (a)(1) to read as follows:

§ 742.20 Anti-terrorism: Libya

(a) *License requirements.* (1) If AT Column 1 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, or the License Requirements Section of an ECCN on the Commerce Control List (Supplement No. 1 to part 774 of the EAR) indicates that such an ECCN is otherwise controlled to Libya for AT reasons without reference to a particular column on the Country Chart, BIS requires a license for export and reexport to Libya for antiterrorism purposes. Also see § 740.19 of the EAR.

* * * * *

PART 772—[AMENDED]

■ 5. The authority citation for 15 CFR part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 2, 2005, 70 FR 45273 (August 5, 2005).

■ 6. Paragraph (a) introductory text of the definition for U.S. Person in § 772.1 is amended to read as follows:

§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).

* * * * *

U.S. Person. (a) For purposes of §§ 740.19, 744.6, 744.10, 744.11, 744.12, 744.13 and 744.14 of the EAR, the term U.S. person includes:

* * * * *

PART 774—[AMENDED]

■ 7. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*, 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 2, 2005, 70 FR 45273 (August 5, 2005).

Supplement No. 1 to Part 774 [Amended]

■ 8. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, Export Control Classification Number (ECCN) 2A994 is amended by revising the License Requirements section to read as follows:

2A994 Portable electric generators and specially designed parts.

License Requirements

Reason for Control: AT.

Control(s). AT applies to entire entry. A license is required for items controlled by this entry to Cuba, Iran, Libya and North Korea. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information on Cuba and Iran. See §§ 740.19 and 742.20 of the EAR for additional information on Libya. See § 742.19 of the EAR for additional information on North Korea.

* * * * *

■ 9. In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, Export Control Classification Number (ECCN) 3A991 is amended by revising the License Requirements section to read as follows:

3A991 Electronic devices and components not controlled by 3A001.

License Requirements

Reason for Control: AT.

Control(s)	Country chart
AT applies to entire entry	AT Column 1.

See §§ 740.19 and 742.20 of the EAR for additional information on Libya.

* * * * *

■ 10. In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, Export Control Classification Number (ECCN) 3A992 is amended by revising the License Requirements section to read as follows:

3A992 General purpose electronic equipment not controlled by 3A002.

License Requirements

Reason for Control: AT.

Control(s)	Country chart
AT applies to entire entry	AT Column 1.

See §§ 740.19 and 742.20 of the EAR for additional information on Libya.

* * * * *

■ 11. In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, Export Control Classification Number (ECCN) 3B992 is amended by revising the License Requirements section to read as follows:

3B992 Equipment not controlled by 3B002 for the inspection or testing of Electronic components and materials, and specially designed components and accessories therefor.

License Requirements

Reason for Control: AT.

Control(s)	Country chart
AT applies to entire entry	AT Column 1.

See §§ 740.19 and 742.20 of the EAR for additional information on Libya.

* * * * *

■ 12. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, Export Control Classification Number (ECCN) 4A994 is amended by revising the License Requirements section to read as follows:

4A994 Computers, ''electronic assemblies'', and related equipment not controlled by 4A001 or 4A003, and specially designed components therefor.

License Requirements

Reason for Control: AT.

Control(s)	Country chart
AT applies to entire entry	AT Column 1.

See §§ 740.19 and 742.20 of the EAR for additional information on Libya.

* * * * *

■ 13. In Supplement No. 1 to part 774 (the Commerce Control List), Category 5—Telecommunications and Information Security''—Telecommunications, Export Control Classification Number (ECCN) 5A991 is amended by revising the License Requirements section to read as follows:

5A991 Telecommunication equipment, not controlled by 5A001.

License Requirements

Reason for Control: AT.

Control(s)	Country chart
AT applies to entire entry	AT Column 1.

See §§ 740.19 and 742.20 of the EAR for additional information on Libya.

* * * * *

■ 14. In Supplement No. 1 to part 774 (the Commerce Control List), Category 5—Telecommunications and ''Information Security''—Information Security, Export Control Classification Number (ECCN) 5A992 is amended by revising the License Requirements section to read as follows:

5A992 Equipment not controlled by 5A002.

License Requirements

Reason for Control: AT.

Control(s)	Country chart
AT applies to 5A992.a	AT Column 1.
AT applies to 5A992.b	AT Column 2.

See §§ 740.19 and 742.20 of the EAR for additional information on Libya.

* * * * *

■ 15. In Supplement No. 1 to part 774 (the Commerce Control List), Category 5—Telecommunications and ''Information Security''—Information Security, Export Control Classification Number (ECCN) 5D992 is amended by revising the License Requirements section to read as follows:

5D992 ''Information Security'' ''software'' not controlled by 5D002.

License Requirements

Reason for Control: AT.

Control(s)	Country chart
AT applies to 5D992.a.1 and .b.1.	AT Column 1.
AT applies to 5D992.a.2, b.2 and c.	AT Column 2.

See §§ 740.19 and 742.20 of the EAR for additional information on Libya.

* * * * *

■ 16. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Propulsion Systems, Space Vehicles and Related Equipment, Export Control Classification Number (ECCN) 9A990 is amended by revising the License Requirements section to read as follows:

9A990 Diesel engines, n.e.s., and tractors and specially designed parts therefor, n.e.s.

License Requirements

Reason for Control: AT.

Control(s)	Country chart
AT applies to entire entry except 9A990.a.	AT Column 1.
AT applies to 9A990.a only ...	AT Column 2.

See §§ 740.19 and 742.20 of the EAR for additional information on Libya.

* * * * *

Dated: November 9, 2005.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 05–22674 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 2004F–0374]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Vitamin D_3

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of vitamin D_3 as a nutrient supplement in cheese and cheese products at a level above that currently allowed by the regulations. This action is in response to a petition filed by Kraft Foods Global, Inc. (Kraft).

DATES: This rule is effective November 16, 2005. Submit written or electronic objections and requests for a hearing by December 16, 2005. See Section VI of this document for information on the filing of objections.

ADDRESSES: You may submit written objections and requests for a hearing, identified by Docket No. 2004F–0374, by any of the following methods:

Electronic Submissions

Submit electronic objections in the following ways:

• Federal eRulemaking Portal: *http://www.regulations.gov*.

Follow the instructions for submitting comments.

• Agency Web site: *http://www.fda.gov/dockets/ecomments*.

Written Submissions

Submit written submissions in the following ways:

• FAX: 301–827–6870.

• Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]:

Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of objections, FDA is no longer accepting objections submitted to the agency by e-mail. FDA encourages you to continue to submit electronic objections by using the Federal eRulemaking Portal or the agency Web site, as described in the *Electronic Submissions* portion of this paragraph.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All objections received will be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For detailed instructions on submitting objections, see the ''Objections'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or objections received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Judith L. Kidwell, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1071.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of September 9, 2004 (69 FR 54687), FDA announced that a food additive petition (FAP 4A4758) had been filed by Kraft Foods Global, Inc., c/o Hogan and Hartson, 555 13th St. NW., Washington, DC 20004. The petition proposed to amend the food additive regulations in § 172.380 *Vitamin D_3* (21 CFR 172.380) to permit the use of vitamin D_3 in cheese and cheese products at a level above that permitted in § 184.1950 *Vitamin D* (21 CFR 184.1950). Currently, under § 184.1950, milk products, which include cheese and cheese products, may be fortified with vitamin D at a level up to 89 International Units (IU) per (/) 100 grams (g). The petitioner requested that the maximum amount of vitamin D permitted in certain natural and processed cheeses be increased to 81 IU vitamin D_3/30 g. Cheese and cheese products identified in the petition for increased fortification levels are those with a reference amount customarily consumed (RACC) of 30 g as defined in § 101.12 (21 CFR 101.12), including standardized and nonstandardized natural cheese, processed cheese, cream cheese, and cheese spreads and dips. Hard grating cheeses with smaller reference amounts, such as Parmesan and Romano as defined in §§ 133.165 and 133.183 (21 CFR 133.165 and 133.183), respectively, and those defined by the standards of identity in § 133.148 (21 CFR 133.148), are not included, nor are cheeses with larger reference amounts, such as cottage cheese or ricotta cheese. Cheese-like products made from nondairy starting materials (e.g., soy-based products) are not considered to be cheese and are not included. The new limit would permit vitamin D to be added to cheese and cheese products at a level slightly more than 20 percent of the reference daily intake (RDI) of vitamin D/30 g serving. Under § 101.54 (21 CFR 101.54), food containing 10 to 19 percent of the RDI of a nutrient is allowed to carry a label claim such as ''good source'' and if the level is 20 percent or more of the RDI, the food label may claim ''excellent source.''

Under § 172.380, vitamin D_3 is approved for use as a nutrient supplement in calcium-fortified fruit juices, calcium-fortified fruit juice drinks, meal replacement and other-type bars, and soy-protein based meal replacement beverages represented for special dietary use in reducing or maintaining body weight. Vitamin D [1], including vitamin D_3, also is affirmed as generally recognized as safe (GRAS) for use in food under § 184.1950 with the following limitations:

Category of Food	Maximum Levels in Food (as served)
Breakfast cereals	350 IU/100 g
Grain products and pasta	90 IU/100 g
Milk	42 IU/100 g
Milk products	89 IU/100 g

Additionally, under § 184.1950(c)(2) and (c)(3) vitamin D is affirmed as GRAS for use in infant formula and margarine, respectively.

[1]Vitamin D comprises a group of fat-souble secosterols and comes in many forms. The two major physiologically relevant forms are vitamin D_2 and vitamin D_3. Vitamin D without a subscript represents either D_2 or D_3. As used in § 184.1950, the meaning of the term vitamin D includes crystalline vitamin D_2, crystalline vitamin D_3, vitamin D_2 resin, and vitamin D_3 resin. Section 172.380 includes only crystalline vitamin D_3.

Vitamin D_3, also known as cholecalciferol, is the chemical 9,10-seco(5Z,7E)-5,7,10(19)-cholestatrien-3-ol. Humans synthesize vitamin D_3 in skin from its precursor, 7–dehydrocholesterol under exposure to ultraviolet B radiation in sunlight. Other sources of naturally occurring vitamin D are foods such as butter, buttermilk, cheese, cream, eggs, fish, goat milk, meat fats and organ meats, and mushrooms.

Vitamin D is essential for human health. The major function of vitamin D is to maintain blood serum concentrations of calcium and phosphorus by enhancing the absorption of these minerals from the small intestine. Vitamin D deficiency can lead to abnormalities in calcium and bone metabolism such as rickets in children or osteomalacia in adults. At high levels vitamin D may be toxic. Excessive intake of vitamin D elevates blood plasma calcium levels by increased intestinal absorption and/or mobilization from the bone.

To ensure that vitamin D is not added to the U.S. food supply at levels that could raise safety concerns, FDA affirmed vitamin D as GRAS with specific limitations, as listed in § 184.1950. Under 21 CFR 184.1(b)(2), an ingredient affirmed as GRAS with specific limitations may be used in food only within such limitations, including the category of food, functional use, and level of use. Any addition of vitamin D to food beyond those limitations set out in § 184.1950 requires either a food additive regulation or an amendment of § 184.1950.

To support the safety of the proposed uses of vitamin D_3, Kraft submitted dietary intake estimates from current and proposed uses and from naturally-occurring sources of vitamin D and compared these intake estimates to the tolerable upper intake level (UL) for vitamin D established by the Institute of Medicine (IOM) of the National Academies. Kraft also submitted a number of publications pertaining to human clinical studies on vitamin D. Based on this information, which is discussed in section II of this document, the petitioner concluded that the proposed use of vitamin D_3 in cheese and cheese products is safe.

II. Evaluation of Safety

To establish with reasonable certainty that a food additive is not harmful under its intended conditions of use, FDA considers the projected human dietary intake of the additive, the additive's toxicological data, and other

relevant information (such as published literature) available to the agency. FDA compares an individual's estimated daily intake (EDI) of the additive from all sources to an acceptable intake level established by toxicological data. The EDI is determined by projections based on the amount of the additive proposed for use in particular foods and on data regarding the amount consumed from all sources of the additive. The agency commonly uses the EDI for the 90th percentile consumer of a food additive as a measure of high chronic dietary intake.

A. Estimated Daily Intake for Vitamin D

The petitioner provided mean and 90th percentile vitamin D intake estimates for consumers of cheese and cheese products from the following: (1) The proposed food uses; (2) current regulated food uses (including naturally occurring sources of vitamin D); and (3) dietary supplements.[2] Intake estimates for the U.S. population 2 years of age and older were provided, as well as estimates for 18 population subgroups, including breast-fed and nonbreast-fed infants 0 to 11 months of age. The agency agrees with the methodology used to calculate these estimates, with the exception of intake estimates from dietary supplements for infants 0 to 11 months of age.

For consumers 2 years of age and older, Kraft estimated mean and 90th percentile dietary intakes from current (including naturally occurring sources) and proposed food uses of vitamin D to be 335 IU per person per day (IU/p/d) and 582 IU/p/d, respectively. For breast-fed infants 0 to 11 months of age, mean and 90th percentile intakes were estimated to be 180 IU/p/d and 322 IU/p/d, respectively. For nonbreast-fed infants 0 to 11 months of age, mean and 90th percentile intakes were estimated to be 443 IU/p/d and 696 IU/p/d, respectively. For children 1 to 3 years of age, mean and 90th percentile intake estimates were 383 IU/p/d and 583 IU/p/d, respectively.

The petitioner also considered the intake of vitamin D from dietary supplements. The National Health and Nutrition Examination Survey III (NHANES III) data indicate that approximately 33 percent of the U.S. population 2 years of age and older take dietary supplements. The NHANES III data also show that, when vitamin D is taken as a dietary supplement, the most frequent level is 400 IU/p/d. As a conservative estimate of intake of vitamin D from dietary supplements and conventional food, Kraft considered it appropriate to assume that consumers of cheese and cheese products who take dietary supplements likely would take dietary supplements containing 400 IU of vitamin D. They then added this value to the mean and 90th percentile intake estimates from current and proposed food uses for consumers 2 years of age and older. For consumers of cheese and cheese products, mean and 90th percentile dietary intakes from current and proposed food uses and dietary supplements were estimated to be 735 IU/p/d and 982 IU/p/d, respectively, for consumers 2 years of age and older. Kraft chose not to add a value of 400 IU from supplement use to intake estimates for infants 0 to 11 months of age due to the low percentage of infants reported to use supplements (7 percent) in the NHANES III study. While we do not agree with Kraft's choice to exclude supplement use in the vitamin D intake for infants, we believe that, in light of recent recommendations from the American Academy of Pediatrics (AAP),[3] estimating a supplement intake of 200 IU/p/d is more appropriate than 400 IU/p/d for infants.

Based on AAP recommendations, the agency assumed a vitamin D intake of 200 IU from supplement use for infants 0 to 11 months of age, resulting in exposure estimates at the 90th percentile of 522 IU/p/d and 896 IU/p/d for breast-fed and nonbreast-fed infants, respectively. For all other populations (including children and adolescents) we assumed a supplement intake of 400 IU/p/d (Ref. 1).

B. Acceptable Daily Intake for Vitamin D

In 1997, the Standing Committee on the Scientific Evaluation of Dietary Reference Intakes of the Food and Nutrition Board at IOM conducted an extensive review of toxicology and metabolism studies on vitamin D published through 1996. The IOM published a detailed report that included a UL for vitamin D for infants, children, and adults. The IOM UL for vitamin D for children 1 to 18 years of age and adults is 2,000 IU/p/d. The UL for infants less than 1 year of age is 1,000 IU/p/d.

The IOM considers the UL as the highest daily intake level of a nutrient that is unlikely to pose a risk of adverse effects when the nutrient is consumed over long periods of time. The UL is determined using a risk assessment model developed specifically for nutrients and considers intake from all sources: Food, water, nutrient supplements, and pharmacological agents. The dose-response assessment, which concludes with an estimate of the UL, is built upon three toxicological concepts commonly used in assessing the risk of exposures to chemical substances: No-observed-adverse-effect level, lowest-observed-effect level, and an uncertainty factor.

C. Safety Assessment

To support the safety of their proposed uses for vitamin D_3, Kraft submitted scientific articles published subsequent to the IOM report and issuance of the February 2003 final rule for the use of vitamin D_3 in calcium-fortified fruit juices and fruit juice drinks (68 FR 9000, February 27, 2003), including 12 clinical studies in humans in which subjects received both vitamin D and calcium supplementation for periods of up to 3 years. Kraft concluded that the recent publications continue to support the safe use of vitamin D supplementation in both animals and humans. FDA concurs with Kraft's conclusions.

FDA considered the UL established by IOM for infants, children, and adults relative to the intake estimates provided by the petitioner as the primary basis for assessing the safety of the proposed use of vitamin D_3 in cheese and cheese products. For all children and adults 2 years of age and older, mean and 90th percentile intake estimates from current and proposed food uses of vitamin D are well below the IOM UL of 2,000 IU/p/d. For infants 0 to 11 months of age, mean and 90th percentile intakes are below the UL of 1000 IU/p/d. Additionally, when dietary supplements are included in the calculations, intake estimates remain below the UL. Because the EDI of vitamin D from all sources is less than the UL, the agency concludes that dietary exposure of vitamin D_3 from its proposed use as a nutrient supplement in cheese and cheese products will not pose a safety concern.

[2] The intake estimate included Parmesan cheese; however, fortification of hard grating cheeses such as Parmesan was not requested.

[3] ''Prevention of Rickets and Vitamin D Deficiency: New Guidelines for Vitamin D Intake,'' from the American Academy of Pediatrics in: Pediatrics Vol. III No. 4, pp. 908–910, April 2003. The AAP recommends a daily vitamin D supplement of 200 IU for the following groups:

- All breast-fed infants unless they are weaned to at least 500 milliliter (mL)/d of vitamin D-fortified formula or milk.
- All nonbreast-fed infants who are ingesting less than 500 mL/d of vitamin D-fortified formula or milk.
- Children and adolescents who do not get regular sunlight exposure, do not ingest at least 500 mL/d of vitamin D-fortified milk, or do not take a daily multivitamin supplement containing at least 200 IU of vitamin D.

III. Conclusion

Based on all data relevant to vitamin D_3 reviewed by the agency, FDA concludes that there is a reasonable certainty that no harm will result from the use of vitamin D_3 as a nutrient supplement in cheese and cheese products, excluding cottage cheese, ricotta cheese, and hard grating cheeses, such as Parmesan and Romano as defined in §§ 133.165 and 133.183, respectively, and those defined by the standard of identity in § 133.148, at levels up to 81 IU/30 g of cheese. Thus, vitamin D_3 is safe for the proposed use and the agency concludes that the food additive regulations should be amended as set forth in this document. To ensure that only food grade vitamin D_3 is used in food, the additive must meet the specifications set forth in § 172.380.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

IV. Environmental Effects

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 4A4758. No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

V. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VI. Objections

Any person who will be adversely affected by this regulation may file with the Division of Dockets Management (see **ADDRESSES**) written or electronic objections. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. For written objections, three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

VII. Reference

The following reference has been placed on display at the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum from Folmer, Division of Petition Review, Chemistry Review Group, to Kidwell, Division of Petition Review, February 2, 2005.

List of Subjects in 21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

■ 1. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 348, 371, 379e.

■ 2. Section 172.380 is amended by adding paragraph (c)(5) to read as follows:

§ 172.380 Vitamin D_3.

* * * * *

(c) * * *

(5) At levels not to exceed 81 IU per 30 grams in cheese and cheese products as defined under § 170.3(n)(5) of this chapter, excluding cottage cheese, ricotta cheese, and hard grating cheeses such as Parmesan and Romano as defined in §§ 133.165 and 133.183 of this chapter, and those defined by standard of identity in § 133.148 of this chapter.

Dated: November 4, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–22670 Filed 11–15–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Tylosin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Animal Health. The supplemental NADA provides for use of tylosin soluble powder in honey bees for the control of American foulbrood (*Paenibacillus larvae*).

DATES: This rule is effective November 16, 2005.

FOR FURTHER INFORMATION CONTACT: Joan C. Gotthardt, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7571, e-mail: *joan.gotthardt@fda.gov*.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, filed a supplement to NADA 13 076 that provides for the use of TYLAN (tylosin tartrate) Soluble in honey bees for the control of American foulbrood (*Paenibacillus larvae*). The approval of this supplemental NADA relied on publicly available safety and effectiveness data contained in Public Master File (PMF) 5783 which were compiled under National Research Support Project 7 (NRSP 7), a national agricultural research program for obtaining clearances for use of new drugs in minor animal species and for special uses. The supplemental NADA is approved as of October 17, 2005, and the regulations in 21 CFR 520.2640 are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application

may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental impact of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. FDA's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. In § 520.2640, revise paragraph (e) introductory text, and add paragraph (e)(4) to read as follows:

§ 520.2640 Tylosin.

* * * * *

(e) *Conditions of use*—

* * * * *

(4) *Honey bees*—(i) *Amount.* Mix 200 milligrams tylosin in 20 grams confectioners'/powdered sugar. Use immediately. Apply (dust) this mixture over the top bars of the brood chamber once weekly for 3 weeks.

(ii) *Indications for use.* For the control of American foulbrood (*Paenibacillus larvae*).

(iii) *Limitations.* The drug should be fed early in the spring or fall and consumed by the bees before the main honey flow begins, to avoid contamination of production honey. Complete treatments at least 4 weeks before main honey flow.

Dated: November 3, 2005.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 05–22752 Filed 11–15–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–05–100]

Drawbridge Operation Regulations: Connecticut River, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Amtrak Old Saybrook-Old Lyme Bridge, mile 3.4, across the Connecticut River, Connecticut. This deviation from the regulations allows the bridge to operate on a fixed schedule for bridge openings from November 21, 2005 through December 22, 2005. This deviation is necessary in order to facilitate necessary scheduled bridge maintenance.

DATES: This deviation is effective from November 21, 2005 through December 22, 2005.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7195.

SUPPLEMENTARY INFORMATION: The Old Saybrook-Old Lyme Bridge, at mile 3.4, across the Connecticut River has a vertical clearance in the closed position of 19 feet at mean high water and 22 feet at mean low water. The existing drawbridge operating regulations are listed at 33 CFR 117.205(b).

The owner of the bridge, National Railroad Passenger Corporation (Amtrak), requested a temporary deviation from the drawbridge operating regulations to facilitate scheduled electrical bridge repairs. In order to complete the above repairs the bridge must open on a fixed bridge opening schedule.

This deviation to the operating regulations allows the Old Saybrook-Old Lyme Bridge to operate from November 21, 2005 through December 22, 2005, as follows:

From Monday through Friday, the bridge shall open on signal at 8:15 a.m., 12:15 p.m., and 2:15 p.m., daily. From 4 p.m. through 8 a.m. the bridge shall open on signal after a four-hour advance notice is given by calling the number posted at the bridge.

On Saturday and Sunday, the bridge shall open on signal at 8 a.m., 10 a.m., 1 p.m., and 4 p.m., daily. From 4 p.m. through 8 a.m. the bridge shall open on signal after a four-hour advance notice is given by calling the number posted at the bridge.

The bridge shall open on signal for commercial vessels at any time after a four-hour advance notice is given by calling the number posted at the bridge.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 4, 2005.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 05–22647 Filed 11–15–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–05–052]

Drawbridge Operation Regulations; Berwick Bay, Morgan City, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Burlington Northern Railway Vertical Lift Span Railroad Bridge across Berwick Bay, mile 17.5 [Gulf Intracoastal Waterway (Morgan City to Port Allen Alternate Route), mile 0.4], at Morgan City, St. Mary Parish, Louisiana. This deviation provides for two (2) four-hour bridge closures to conduct scheduled maintenance to the railroad on the drawbridge.

DATES: This deviation is effective from 8 a.m. on Tuesday, November 29, 2005 until noon on Wednesday, November 30, 2005.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 500 Poydras Street, New Orleans, Louisiana 70130–3310 between

7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–2965. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The Burlington Northern Railway Company has requested a temporary deviation in order to repair and replace broken bolts on the lift span of the bridge across Berwick Bay, mile 17.5, at Morgan City, St. Mary Parish, Louisiana. This maintenance is essential for the continued safe operation of the railroad bridge. This temporary deviation will allow the bridge to remain in the closed-to-navigation position from 8 a.m. until noon on Tuesday, November 29, 2005 and Wednesday, November 30, 2005.

The vertical lift span bridge has a vertical clearance of 4 feet above National Geodetic Vertical Datum (NGVD) in the closed-to-navigation position and 73 feet above NGVD in the open-to-navigation position. Navigation at the site of the bridge consists of tugs with tows transporting petroleum products, chemicals and construction equipment, commercial fishing vessels, oil industry related work boats and crew boats and some recreational craft. Since the lift span of the bridge will only be closed to navigation four hours per day for two days, ample time will be allowed for commercial and recreational vessels to schedule transits. Accordingly, it has been determined that this closure will not have a significant effect on vessel traffic. The bridge normally remains in the open-to-navigation position until a train enters the signal block, requiring it to close. An average number of openings for the passage of vessels is, therefore, not available. During the repair period, the bridge may open for emergencies; however, delays should be expected to remove all equipment from the bridge. The Intracoastal Waterway—Morgan City to Port Allen Landside Route is an alternate route for vessels with less than a 12-foot draft.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 7, 2005.

Marcus Redford,

Bridge Administrator.

[FR Doc. 05–22646 Filed 11–15–05; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[RME NO. R03–OAR–2004–MD–0010; FRL–7997–5]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Metropolitan Washington, DC 1-Hour Ozone Attainment Plan, Lifting of Earlier Rules Resulting in Removal of Sanctions and Federal Implementation Clocks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This SIP revision is Maryland's attainment plan for the Metropolitan Washington, DC severe 1-hour ozone nonattainment area (the Washington area). EPA previously disapproved in part a 1-hour ozone attainment plan for the Maryland portion of the Washington area and issued a protective finding. This approval lifts the protective finding. EPA is also now determining that Maryland has submitted all required elements of a severe-area 1-hour ozone attainment demonstration and is thus stopping the sanctions and FIP clocks that were started through a finding that the State of Maryland had failed to submit one of the required elements of a severe-area 1-hour attainment plan. The intended effect of this action is to approve Maryland's 1-hour ozone attainment plan for the Washington area and determine that Maryland now has a fully-approved 1-hour attainment plan and thus to turn off the sanctions and FIP clocks started based on a finding that one element of the plan was missing and to lift the protective finding that was issued when EPA disapproved Maryland's earlier plan in part. These final actions are being taken under the Clean Air Act (CAA or the Act).

DATES: This final rule is effective on December 16, 2005.

ADDRESSES: EPA has established a docket for this action under Regional Material in EDocket (RME) ID Number R03–OAR–2004–MD–0010. All documents in the docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/*. Once in the system, select ''quick search,'' then key in the appropriate RME identification number. Although listed in the electronic docket, some information is not publicly available, *i.e.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814–2179, or by e-mail at *cripps.christopher@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document the terms ''we,'' ''our,'' and ''its'' refer to the EPA.

I. Background

On July 15, 2005 (70 FR 40946), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of Maryland's attainment plan for the Metropolitan Washington, DC severe 1-hour ozone nonattainment area (the Washington area). Concurrently, EPA proposed to rescind its earlier final rule which disapproved and granted a protective finding for Maryland's 1-hour ozone attainment plan for the Washington area. In that July 15, 2005 notice of proposed rulemaking, EPA also proposed to rescind its earlier rule finding that the State of Maryland failed to submit one required element of a severe 1-hour ozone attainment plan, namely that for a penalty fee program required under sections 182(d)(3) and 185 of the Act.

II. Public Comments and EPA Responses

A. Overview

EPA received comments dated August 15, 2005 opposing our proposed action to approve Maryland's 1-hour ozone attainment plan for the Washington, DC area in the absence of an approved SIP revision for a section 185 penalty fee program covering the Maryland portion of the Washington area.

One comment was that promulgation of the 8-hour ozone standard did not grant EPA the authority to waive the section 185 penalty fee program for the Washington area. In support of this comment, the commenter incorporates the reasons stated in portions of comment letters the commenter had previously submitted on EPA's proposed rules for implementation of the 8-hour ozone NAAQS and on EPA's proposed action on two issues raised in a petition for reconsideration of EPA's rule to implement the 8-hour ozone NAAQS. Specifically, the August 15, 2005 comments enclosed a copy of:

(1) ''Proposal to Implement the 8-Hour Ozone National Ambient Air Quality Standard, 68 FR 32802 (June 2, 2003), EPA Docket No. OAR 2003–0079, Comments of: Clean Air Task Force, American Lung Association, Conservation Law Foundation, Earthjustice, Environmental Defense, Natural Resources Defense Council, Southern Alliance For Clean Energy, Southern Environmental Law Center, and U.S. Public Interest Research Group,'' dated August 1, 2003, that was docketed as item number OAR 2003–0079–0215 in EPA Docket No. OAR 2003–0079; and,

(2) A March 21, 2005 comment letter regarding ''Notice of proposed rulemaking responding in part to reconsideration petition on ozone implementation rule, 70 FR 5593 (Feb. 3, 2005), docket no. OAR–2003–0079,'' that was docketed as item number OAR–2003–0079–0753 in EPA Docket No. OAR–2003–0079.

A copy of each of these items has been placed in the docket for this action. The commenter specifically incorporates by reference parts I and III of the June 2, 2003 comments (identified in the August 15, 2005 document as being submitted to EPA on August 3, 2003); and parts 1 and 2 of the March 21, 2005 letter).

The second comment asserts that EPA should defer final action on the Maryland attainment plan for the Washington area until after the resolution of litigation commenced by the commenter over EPA's rules to implement the 8-hour ozone NAAQS which relate to revocation of the 1-hour ozone NAAQS and waiver of the section 185 penalty fee program requirement.

B. Comments Regarding Section 185 Penalty Fee Program Under the 8-Hour Implementation Rule

Comment and Response: The commenter incorporated by reference portions of comment letters previously submitted on EPA's proposed rules for implementation of the 8-hour ozone NAAQS (Phase 1 Rule) and EPA's proposed action reconsidering certain aspects of the final Phase 1 8-hour ozone NAAQS implementation rule (Reconsideration Rule). The issues raised in these comments concern EPA's authority and policy bases for determining that States would no longer be required to submit SIP meeting the section 185 fee provision for purposes of the 1-hour ozone NAAQS once that standard no longer applied (i.e., for most areas of the country as of June 15, 2005). EPA responded to these comments in those two rulemaking actions. EPA took final action in the Phase 1 Rule and in the Reconsideration Rule determining that it had authority to determine that the section 185 fee SIP is no longer required in areas where the 1-hour standard had applied. Thus, the comments cited by the commenter are not relevant to this rulemaking where EPA is merely applying that final rule. However, to the extent those comments and responses might have some relevance to the present rulemaking on the Maryland SIP, we incorporate by reference our responses found in the following documents:

(1) The ''Final Rule To Implement the 8-Hour requirements—Phase 1,'' 69 FR 23951, April 30, 2004, particularly 69 FR at 23984–23988.

(2) ''Implementation of the 8-Hour Ozone National Ambient Air Quality Standard-Phase 1: Reconsideration,'' 70 FR 30592, May 26, 2005, particularly 70 FR at 30593–30595.

(3) ''Final Rule to Implement the 8-hour National Ambient Air Quality Standard for Ozone (Phase 1) Response to Comments Document'' dated April 15, 2004, particularly pages 81 through 106 (inclusive), and, pages 141 through 144 (inclusive).[3]

C. Comments Advocating a Delay of Final Action Until Resolution of Pending Litigation

Comment: EPA received a comment stating that if EPA did not accept the commenter's arguments for not approving this rule, then EPA should at least defer its final action until the litigation challenging EPA's rules implementing the 8-hour ozone standard is resolved, because EPA's stated basis for rescinding the Maryland SIP disapproval and sanctions clock relies on the national rules. This comment asserts that delay in implementing the section 185 penalty fee requirements would ''undermine'' air quality in the Washington area and that there is no harm in requiring Maryland to move forward in the interim with adoption of SIP provisions to implement the section 185 penalty fee provisions. The comment notes that the District and Virginia have already adopted and submitted SIP revisions for the section 185 penalty fee program and received EPA's approval of these SIP revisions.

Response: EPA disagrees that we should defer action on the Maryland SIP until the litigation on the Phase 1 and Reconsideration Rules is resolved and that such a deferral would not result in any harm. Such litigation could take a year or more until the court issues a decision. In the interim, the State would face sanctions and a FIP if it failed to adopt and submit the section 185 fees SIP. Thus, harm could result from the imposition of sanctions. Additionally, the State or EPA would also be required to devote resources to developing a section 185 fees SIP or FIP.

Section 185 Penalty Fee and Air Quality: EPA disagrees with the commenter's assertion that approving the Maryland attainment plan without a section 185 penalty fee provision would ''undermine the air quality'' in the Washington area. The section 185 fee obligation is not a control measure that results in reductions of ozone precursor emissions. As we previously noted, in response to the comments submitted on our rulemaking disapproving Maryland's attainment plan, but granting a protective finding for transportation conformity purposes, the section 185 fee program is not a control measure. *See*, 70 FR 25719 at 25721–25722, May 13, 2005. Section 185 of the Act simply requires that the SIP contain a provision that major stationary sources within a severe or extreme nonattainment area pay ''a fee to the state as a penalty'' for failure of that area to attain the ozone NAAQS by the area's attainment date. This penalty fee is based on the tons of volatile organic compounds or nitrogen oxides emitted above a source-specific trigger level during the ''attainment year.'' It first comes due for emissions during the calendar year beginning after the attainment date and must be paid annually until the area is redesignated to attainment of the ozone NAAQS. 42 U.S.C. 7511d(a)–(c); 7511a(f)(1). Thus, if a severe area, with an attainment date of November 15, 2005, fails to attain by that date, the first penalty assessment will be assessed in calendar year 2006 for emissions that exceed 80% of the source's 2005 baseline emissions.

A penalty fee that is based on emissions could have some incidental effect on emissions if sources decrease their emissions to reduce the amount of the per ton monetary penalty. However, the penalty fee does not ensure that any actual emissions reduction will ever occur, since every source can pay a penalty rather than achieve actual

[3] A copy of this document is available in the docket (both paper and electronic) for this action and previously was docketed as items numbers OAR–2003–0079–0715 and OAR–2003–0079–0716 in EPA Docket No. OAR–2003–0079.

emissions reductions. The provision's plain language evinces an intent to penalize emissions in excess of a threshold by way of a fee; it does not have as a stated purpose the goal of emissions reductions.

In addition, we note that it is unlikely that the section 185 penalty fee would take effect for the Washington, DC severe 1-hour ozone nonattainment. The Act is clear that the section 185 penalty fees apply only if a severe or extreme area fails to attain the ozone NAAQS by the applicable attainment date. If the 1-hour ozone standard were still intact, and if the Washington area were to attain the 1-hour ozone NAAQS by its attainment date of November 15, 2005, then the requirement that sources pay the section 185 penalty fees would never be triggered. A determination that the Washington area has attained or not attained the standard by its attainment date must be based on air quality monitoring data for the 2003 through 2005 (inclusive ozone seasons). The form of the 1-hour ozone standard is such that to show attainment a monitor must have no more than an average of one expected exceedance over a three year period. 40 CFR 50.9. The procedure for determining the number of expected exceedances is set forth in Appendix H to 40. EPA has reviewed the available air quality data for the Washington area. No monitor was violating the 1-hour ozone standard in 2003 and 2004. Additionally, we note our review of the air quality data for the 2005 ozone season (which has not yet been quality-assured by the States and for which the quality-assurance certification is not required until July 1, 2006), indicates there have been no reported exceedances of the 1-hour ozone NAAQS in the Washington area through September 30, 2005. Thus, it seems likely that, had the 1-hour ozone standard not been revoked, the Washington area would attain the 1-hour NAAQS by the area's 1-hour ozone attainment deadline, and that the section 185 fees will not apply for purposes of the 1-hour NAAQS in the area.

EPA's Delay Could Result in Irreparable Harm: We disagree with the commenter that requiring Maryland to adopt the section 185 fees program will not result in irreparable harm.

If we do not find that Maryland has fully met its obligations with respect to the 1-hour attainment demonstration obligation, the Maryland portion of the Washington area will be subject to the 2:1 offset sanction of 40 CFR 52.31 on December 21, 2005 pursuant to our finding that the State failed to submit a section 185 penalty fee program. *See* 69 FR 29236 (May 21, 2004). The highway sanctions of 40 CFR 52.31 would commence on June 21, 2006. The briefing schedule in the *South Coast Air Quality Management Dist* v. *EPA*, No. 04–1200 (and consolidated cases) (D.C. Cir., filed 6–29–04) challenge to the 8-hour implementation rules currently does not call for EPA to submit its brief until January 26, 2006, and final briefs by May 26, 2006, *i.e.*, after the offset sanctions have commenced and less than a month before the highway sanctions will commence. Therefore, the State would either be subject to sanctions for some period of time, or would need to devote resources to adopting the section 185 fees program. Thus, the State and its citizens would be harmed—either from the sanctions or from the need to devote limited state resources to adopting the program.

III. Final Action

EPA is approving Maryland's attainment plan for the Metropolitan Washington, DC severe 1-hour ozone nonattainment area. Concurrently, EPA is determining that Maryland has submitted all required elements of a severe-area 1-hour ozone attainment demonstration and is thus stopping the sanctions and FIP clocks that were started through a finding that the State of Maryland had failed to submit one of the required elements of a severe-area 1-hour attainment plan. *See* May 13, 2005 (70 FR 25719). Additionally, since the State now has a fully approved 1-hour ozone attainment demonstration SIP, we are lifting the protective finding that was issued with our earlier disapproval of Maryland's 1-hour ozone attainment demonstration. *See* May 13, 2005 (70 FR 25719).

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement

Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 17, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving Maryland's attainment plan for the Metropolitan Washington, DC severe 1-hour ozone nonattainment area and rescinding earlier final rules starting sanctions clocks from may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: November 8, 2005. Donald S. Welsh,

Regional Administrator,

Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart V—Maryland

■ 2. In § 52.1070, the table in paragraph (e) is amended by adding the entry for 1-hour Ozone Attainment Plan at the end of the table to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
1-hour Ozone Attainment Plan	Washington DC 1–hour ozone nonattainment area.	9/2/2003 2/24/2004	11/16/05 [Insert page number where the document begins].	

§ 52.1073 [Amended]

■ 3. Section 52.1073 is amended by removing and reserving paragraphs (f) and (g).

[FR Doc. 05–22700 Filed 11–15–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[R05–OAR–2005–IN–0008; FRL–7997–8]

Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Delaware County to Attainment of the 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On August 25, 2005, the State of Indiana, through the Indiana Department of Environmental Management (IDEM), submitted: a request for EPA approval of a redesignation of Delaware County to attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS); and a request for EPA approval of an Indiana State Implementation Plan (SIP) revision containing a 10-year ozone maintenance plan for Delaware County. EPA is approving the State's requests.

EPA's approval of the redesignation request is based on the determination that Delaware County and the State of Indiana have met the criteria for redesignation to attainment specified in the Clean Air Act (CAA), including the determination that Delaware County has attained the 8-hour ozone standard. In conjunction with the approval of the redesignation request for Delaware County, EPA is approving the State's plan to maintain the attainment of the 8-hour ozone NAAQS through 2015 in this area as a revision to the Indiana SIP. EPA is also approving the 2015 Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_X) Motor Vehicle Emissions Budgets (MVEBs) for this area, as defined in the ozone maintenance plan, for purposes of transportation conformity.

DATES: This rule is effective on January 3, 2006, unless EPA receives adverse written comments by December 16, 2005. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit comments, identified by Regional Material in EDocket (RME) ID No. R05–OAR–2005–IN–0008, by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the on-line instructions for submitting comments.

Agency Web site: http://docket.epa.gov/rmepub/. Regional RME, EPA's electronic public docket and comments system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

E-mail: mooney.john@epa.gov.

Fax: (312) 886–5824.

Mail: You may send written comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 AM to 4:30 PM excluding Federal holidays.

Instructions: Direct your comments to RME ID No. R05–OAR–2005–IN–0008. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov, or e-mail. The EPA RME Web site and the federal regulations.gov Web site are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://docket.epa.gov/rmepub/*. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically in RME or in hard copy at Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. We recommend that you telephone Edward Doty, Environmental Scientist, at (312) 886–6057 before visiting the Region 5 office. This Facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057, *doty.edward@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. EPA's Actions

A. What actions is EPA taking?

EPA is taking several related actions. EPA is determining that Delaware County has attained the 8-hour ozone NAAQS, and that it has met the requirements for redesignation to attainment of the 8-hour ozone NAAQS under section 107(d)(3)(E) of the CAA. EPA is, therefore, approving a request from the State of Indiana to change the designation of Delaware County from nonattainment to attainment for the 8-hour ozone NAAQS.

EPA is also approving Indiana's ozone maintenance plan for this area as a SIP revision. The maintenance plan is designed to keep Delaware County in attainment of the 8-hour ozone NAAQS for the next 10 years, through 2015. As supported by and consistent with the ozone maintenance plan, EPA is also approving the 2015 VOC and NO_X MVEBs for Delaware County for conformity purposes.

B. Do these actions apply to me?

These actions pertain to the designation of Delaware County for the 8-hour ozone NAAQS and to the emission controls related to attainment and maintenance of the 8-hour ozone NAAQS in this area. The emissions of concern are VOC and NO_X. If you own or operate a VOC or NO_X emissions source in Delaware County or live in this area, this final action may impact or apply to you. It may also impact you if you are involved in transportation planning or implementation of emission controls in this area.

C. What is the background for these actions?

EPA has determined that ground-level ozone is detrimental to human health. On July 18, 1997, the EPA promulgated an 8-hour ozone NAAQS (62 FR 38856) of 0.08 parts per million parts of air (0.08 ppm) (80 parts per billion (ppb)).[1] The 8-hour ozone standard replaces a prior 1-hour ozone NAAQS, which was promulgated on February 8, 1979 (44 FR 8202), and which was revoked on June 15, 2005. It should be noted that ground-level ozone is not directly emitted by sources. Rather, emitted NO_X and VOC react in the presence of sunlight to form ground-level ozone along with other secondary compounds. NO_X and VOC are referred to as ''ozone precursors.''

The CAA required EPA to designate as nonattainment any area that violated the 8-hour ozone NAAQS based on the three most recent years of air quality data (2001–2003 ozone data were considered for the initial 8-hour ozone designations). The **Federal Register** notice making these designations was signed on April 15, 2004, and was published on April 30, 2004 (69 FR 23857).

The CAA contains two sets of provisions—subpart 1 and subpart 2—that address planning and emission control requirements for nonattainment areas. (Both are found in title I, part D of the CAA.) Subpart 1 contains general, less prescriptive, requirements for nonattainment areas for any pollutant, including ozone, governed by a NAAQS, and applies to all nonattainment areas. Subpart 2 contains more specific requirements for certain ozone nonattainment areas, and applies to ozone nonattainment areas classified under section 181 of the CAA. Subpart 1 nonattainment areas, those areas not classified under section 181 of the CAA, are subject only to the provisions of subpart 1. Subpart 2 nonattainment areas, however, are subject to the provisions of subpart 2, as well as to the provisions of subpart 1 (many of the requirements in subpart 1 are superseded by the more-prescriptive requirements of subpart 2).

In the April 30, 2004 designation rulemaking, EPA divided 8-hour ozone nonattainment areas into the categories of subpart 1 nonattainment (basic nonattainment areas) and subpart 2 nonattainment (classified nonattainment

[1] This standard is violated in an area when any ozone monitor in the area (or in its impacted downwind environs) records 8-hour ozone concentrations with an average of the annual fourth-highest daily maximum 8-hour ozone concentrations over a three year period equaling or exceeding 85 ppb.

areas) based on their 8-hour ozone design values (i.e., the three-year average annual fourth-highest daily maximum 8-hour ozone concentrations at the worst-case monitoring sites in the designated areas) and their 1-hour ozone design values (i.e., the fourth-highest daily maximum 1-hour ozone concentrations over the three-year period at the worst-case monitoring sites in the designated areas).[2] 8-hour ozone nonattainment areas with 1-hour ozone design values equaling or exceeding 121 ppb were designated as classified nonattainment areas (as nonattainment areas required to meet the requirements of subpart 2 of the CAA). All other 8-hour ozone nonattainment areas were designated as basic nonattainment areas.

In the April 30, 2004 designation/classification rulemaking, Delaware County was designated as nonattainment for the 8-hour ozone standard, and was identified as a basic, subpart 1 nonattainment area.[3] This designation was based on ozone data collected in Delaware County during the 2001–2003 period.

On August 25, 2005, the State of Indiana requested redesignation of Delaware County to attainment for the 8-hour ozone NAAQS based on ozone data collected during the 2002–2004 period. This redesignation request was supplemented on October 20, 2005 with a clarification of the State's intent with regard to the triggering of contingency measures in the ozone maintenance plan for Delaware County. Today's final rule addresses the ozone redesignation request as modified.

II. What Are the Criteria for Redesignation to Attainment?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) allows for redesignation to attainment provided that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved an applicable SIP for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable emissions reductions resulting from implementation of the applicable SIP, Federal air pollution control regulations, and other permanent and enforceable emissions reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and, (5) the State containing the area has met all requirements applicable to the area under section 110 and part D of the CAA.

EPA provided guidance on redesignation in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 on April 16, 1992 (57 FR 13498), and supplemented this guidance on April 29, 1992 (57 FR 13498). EPA provided further guidance on processing redesignation requests in the following documents:

Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill Laxton, June 18, 1990;

''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;

''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;

''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992;

''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (Act) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; ''Technical Support Documents (TSD's) for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;

''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;

''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;

''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and,

''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

III. What Is the Effect of EPA's Actions?

Approval of this redesignation request would change the official designation of Delaware County for the 8-hour ozone NAAQS found at 40 CFR part 81 from nonattainment to attainment. This final rule would also incorporate into the Indiana SIP a plan for maintaining the 8-hour ozone NAAQS in the area through 2015. The maintenance plan includes contingency measures to remedy or prevent possible future violations of the 8-hour ozone NAAQS, and establishes MVEB's of 3.50 tons per day (tpd) for VOC and 4.82 tpd for NO_X for Delaware County.

IV. What Is EPA's Analysis of the State's Request?

In this final rule, EPA: (1) Determines that Delaware County has attained the 8-hour ozone standard and approves the redesignation of Delaware County to attainment of the 8-hour ozone NAAQS; and, (2) approves the ozone maintenance plan and 2015 VOC and NO_X MVEBs for this area. The bases for our determination and approvals are as follows:

1. Delaware County Has Attained the 8-Hour Ozone NAAQS

EPA has determined that Delaware County has attained the 8-hour ozone NAAQS. For ozone, an area may be considered to be attaining the 8-hour ozone NAAQS if there are no violations of the NAAQS, as determined in accordance with 40 CFR 50.10 and Appendix I of 40 CFR part 50, based on the most recent three complete, consecutive calendar years of quality-assured air quality monitoring data at any monitoring site in the area. To attain this standard, the average of the annual fourth-high daily maximum 8-hour average ozone concentrations recorded at each monitor (the monitoring site's ozone design value) over the 3-year period must not exceed

[2] The 8-hour ozone design value and 1-hour ozone design value for each area were not necessarily recorded at the same monitoring site. The worst-case monitoring site for each concentration averaging time was considered for each area.

[3] Because this area was not violating the 1-hour ozone NAAQS, with a 1-hour ozone design value at or above the 121 ppb cutoff at the time of the promulgation of the 8-hour ozone designations and classifications, EPA determined that this area should be addressed through the less-prescriptive requirements of subpart 1 of the CAA rather than through the more-prescriptive requirements of subpart 2 of the CAA.

the ozone standard. Based on the rounding convention described in 40 CFR part 50, Appendix I, the 8-hour ozone standard is attained if the area's ozone design value (highest ozone design value for all monitoring sites in the area) is 84 ppb or lower. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in EPA's Aerometric Information Retrieval System (AIRS). The ozone monitors generally should have remained at the same locations for the duration of the monitoring period required for demonstrating attainment (for three years or more).

As part of the August 25, 2005 ozone redesignation request, IDEM submitted summarized ozone monitoring data indicating the top four daily maximum 8-hour ozone concentrations for the sole monitoring site in Delaware County, Albany Elementary, for each year during the 2001–2004 period. These ozone concentrations have been quality-assured and are a subset of the quality-assured ozone data stored in EPA's AIRS. The annual fourth-high 8-hour ozone monitoring concentrations and the three-year average fourth-high 8-hour ozone concentrations are summarized in Table 1. Of particular note is the three-year average for the 2002–2004 period, the air quality basis for the determination of attainment for Delaware County.

TABLE 1.—ANNUAL FOURTH-HIGH 8-HOUR OZONE CONCENTRATIONS AND THREE-YEAR AVERAGE FOURTH-HIGH 8-HOUR OZONE CONCENTRATIONS IN DELAWARE COUNTY INDIANA, CONCENTRATIONS IN PPB

Site	Year	Fourth-high 8-hour concentration	Three-year average for ending year
Albany Elementary	2001	84	NA
Albany Elementary	2002	95	NA
Albany Elementary	2003	85	88
Albany Elementary	2004	70	83

These data show that the ozone design value (average annual fourth-high daily maximum 8-hour ozone concentration over a three-year period) for the only ozone monitoring site in Delaware County during the 2002–2004 period is below the 85 ppb 8-hour ozone standard violation cut-off. These data support the conclusion that Delaware County did not experience a monitored violation of the 8-hour ozone standard during the period of 2002–2004. Preliminary data through September of the 2005 ozone season show that Delaware County continues to attain the 8-hour ozone standard.

EPA believes that the data submitted by Indiana provide an adequate demonstration that Delaware County has attained the 8-hour ozone NAAQS.

Indiana has committed to continue ozone monitoring in Delaware County. IDEM commits to consult with the EPA prior to making any changes in this ozone monitoring.

2. Delaware County Has Met All Applicable Requirements Under Section 110 and Part D of the CAA and the Area Has a Fully Approved SIP Under Section 110(k) of the CAA

We have determined that Indiana has met all currently applicable SIP requirements for purposes of redesignation of Delaware County under section 110 of the CAA (general SIP requirements). We have also determined that the Indiana SIP meets all SIP requirements currently applicable for purposes of redesignation under Part D of title I of the CAA (requirements specific to subpart 1 nonattainment areas). See section 107(d)(3)(E)(v) of the CAA. In addition, we have determined that the Indiana SIP is fully approved with respect to requirements applicable for purposes of redesignation. See section 107(d)(3)(E)(ii) of the CAA. In making these determinations, we have ascertained what SIP requirements are applicable to the area for purposes of redesignation, and have determined that the portions of the SIP meeting these requirements are fully approved under section 110(k) of the CAA. We note that SIPs must be fully approved only with respect to currently applicable requirements of the CAA.

a. *Delaware County has met all applicable requirements under section 110 and part D of the CAA.* The September 4, 1992 Calcagni memorandum (see ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) of the CAA. Under this interpretation, to qualify for redesignation of an area to attainment, the state and the area must meet the relevant CAA requirements that come due prior to the state's submittal of a complete redesignation request for the area. See also the September 17, 1993 Shapiro memorandum and 66 FR 12459, 12465–12466 (March 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS). Applicable requirements of the CAA that come due subsequent to the state's submittal of a complete request remain applicable until a redesignation to attainment is approved, but are not required as a prerequisite to redesignation. See section 175A(c) of the CAA. *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004). See also 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

General SIP requirements: Section 110(a) of title I of the CAA contains the general requirements for a SIP, which include: enforceable emission limitations and other emission control measures, means, or techniques; provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality; and programs to enforce the emission limitations. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements and SIP elements include, but are not limited to, the following: (a) Submittal of a SIP that has been adopted by the state after reasonable public notice and a hearing; (b) provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; (c) implementation of a source permit program; (d) provisions for implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and part D requirements (New Source Review (NSR)) for new sources or major source modifications; (e) criteria for stationary source emission control measures, monitoring, and reporting; (f) provisions for air quality modeling; and (g) provisions for public and local agency participation.

Section 110(a)(2)(D) of the CAA requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address transport of air pollutants (NO_X SIP call, Clean Air Interstate Rule (CAIR)). However, the section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification. EPA believes that the requirements linked with a particular nonattainment area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the desgination of any one particular area in the state.

We believe that these requirements should not be construed to be applicable requirements for purposes of redesignation. Further, we believe that the other section 110 elements described above that are not connected with nonattainment plan submissions and not linked with an area's attainment status are also not applicable requirements for purposes of redesignation. A state remains subject to these requirements after an area is redesignated to attainment. We conclude that only the section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures in evaluating a redesignation request. This approach is consistent with EPA's existing policy on applicability of conformity and oxygenated fuels requirements for redesignation purposes, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking (60 FR 62748, December 7, 1995). See also the discussion on this issue in the Cincinnati ozone redesignation (65 FR 37890, June 19, 2000), and the Pittsburgh ozone redesignation (66 FR 50399, October 19, 2001).

We believe that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. Any section 110 requirements that are linked to the part D requirements for 8-hour ozone nonattainment areas are not yet due, since, as explained below, no Part D requirements applicable for purposes of redesignation under the 8-hour standard became due prior to submission of the redesignation requests. Therefore, as discussed above, for purposes of redesignation, they are not considered applicable requirements.

Part D SIP requirements. EPA has determined that the Indiana SIP meets applicable SIP requirements under part D of the CAA since no requirements applicable for purposes of redesignation became due for the 8-hour ozone standard prior to submission of the Delaware County redesignation request. Subpart 1 of part D, found in sections 172–176 of the CAA, sets forth the basic nonattainment area plan requirements applicable to all nonattainment areas. Because Delaware County is a subpart 1 8-hour ozone nonattainment area and is not classified under subpart 2 of part D of the CAA for the 8-hour ozone standard, subpart 2 of part D of the CAA does not apply to this area.

Part D, Subpart 1 applicable requirements. For purposes of evaluating this ozone redesignation request, the applicable part D, subpart 1 SIP requirements for Delaware County are contained in section 172 of the CAA. A thorough discussion of the requirements of section 172 can be found in the General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992).

No requirements applicable for purposes of redesignation under part D became due prior to submission of the redesignation request, and, therefore, none is applicable to the area for purposes of redesignation. For example, the requirement for an ozone attainment demonstration to meet the requirement of section 172(c)(1) is not yet applicable, nor are the requirements for Reasonably Available Control Measures (RACM) and Reasonably Available Control Technology (RACT) (section 172(c)(1)), Reasonable Further Progress (RFP) (section 172(c)(2)), and contingency measures (section 172(c)(9)).

Since the State of Indiana has submitted a complete ozone redesignation request for Delaware County prior to the deadline for any submissions required for purposes of redesignation, we have determined that these requirements do not apply to Delaware County for purposes of redesignation.

Section 176 conformity requirements. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that the Federally-supported and funded activities, including highway projects, conform to the air planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded, or approved under Title 23 U.S.C. and the Federal Transit Act (transportation conformity) as well as to all other Federally supported or funded projects (general conformity). State conformity revisions must be consistent with Federal conformity regulations relating to consultation, enforcement, and enforceability that the CAA required the EPA to promulgate.

EPA believes that it is reasonable to interpret the conformity SIP requirements as not applying for purposes of evaluating the ozone redesignation request under section 107(d) of the CAA because state conformity rules are still required after redesignation of an area to attainment of a NAAQS and Federal conformity rules apply where state rules have not been approved. See *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001). See also 60 FR 62748 (December 7, 1995) (Tampa, Florida).

Identification and Quantification of Allowable Emissions for Major New or Modified Stationary Sources. EPA has also determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the standard without part D NSR, since PSD requirements will apply after redesignation. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Indiana has demonstrated that Delaware County will be able to maintain the 8-hour ozone standard without part D NSR in effect, and therefore, EPA concludes that the State need not have a fully approved part D NSR program prior to approval of the redesignation request. The State's PSD program will become effective in Delaware County upon redesignation to attainment. See rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996). Thus, the area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of the CAA.

b. *Delaware County has a fully approved SIP under section 110(k) of the CAA.* EPA has fully approved the Indiana SIP for Delaware County under section 110(k) of the CAA for all

requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (See the September 4, 1992 John Calcagni memorandum, page 3, *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998), *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001)) plus on any additional measures it may approve in conjunction with a redesignation action. See 68 FR 25426 (May 12, 2003). Since the passage of the CAA of 1970, Indiana has adopted and submitted, and EPA has fully approved, provisions addressing the various required SIP elements applicable to Delaware County for the 1-hour ozone standard. No Delaware County-related SIP provisions are currently disapproved, conditionally approved, or partially approved. As indicated above, EPA believes that the section 110 elements not connected with nonattainment plan submissions and not linked to the area's nonattainment status are not applicable requirements for purposes of redesignation. EPA also believes that since the part D requirements applicable for purposes of redesignation did not become due prior to submission of the redesignation request, they also are, therefore, not applicable requirements for purposes of redesignation.

3. The Air Quality Improvement in Delaware County Is Due to Permanent and Enforceable Reductions in Emissions From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Emission Reductions

EPA believes that the State of Indiana has demonstrated that the observed air quality improvement in Delaware County is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP, Federal measures, and other state-adopted measures.

In making this demonstration, the State has documented the changes in VOC and NO_X emissions for both Delaware County and for nine Central Indiana Counties (Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby), whose emissions are believed to substantially impact the air quality in Delaware County, for the years of 2000 and 2002.[4] 2000 is a year in which Delaware was in violation of the 8-hour ozone standard, and 2002 is the first year of the three-year period in which Delaware County attained the 8-hour ozone standard.

A comparison of the VOC and NO_X emissions for Delaware County and the Central Indiana Counties for 2000 and 2002 is summarized in Tables 2 and 3.

TABLE 2.—VOC EMISSIONS IN DELAWARE COUNTY AND CENTRAL INDIANA COUNTIES IN 2000 AND 2002 IN TONS PER YEAR

County	2000	2002
Delaware	396	300
Boone	22	9
Hamilton	197	148
Hancock	319	178
Hendricks	45	37
Johnson	1,006	494
Madison	414	485
Marion	3,115	2,100
Morgan	37	112
Shelby	859	914
Totals	6,410	4,777

TABLE 3.—NO_X EMISSIONS IN DELAWARE COUNTY AND CENTRAL INDIANA COUNTIES IN 2000 AND 2002 IN TONS PER YEAR

County	2000	2002
Delaware	300	186
Boone	0	0
Hamilton	2155	1193
Hancock	84	58
Hendricks	124	2
Johnson	10	8
Madison	434	326
Marion	12718	12056
Morgan	4603	4743
Shelby	2681	1591
Totals	23109	20163

In the above tables, the most relevant emissions are those for Delaware County. These data show that the local VOC and NO_X emissions have declined between 2000, a year preceding the 2001–2003 violation period with emissions indicative of the emissions at the start of the ozone violation period, and 2002, one of the years in the three-year attainment period.

The Central Indiana Counties are generally upwind of Delaware County

[4] Emissions data for years after 2002 are not available for all sources. Note that 2002 is part of the three-year period in which Delaware County has attained the 8-hour ozone standard, and, therefore, can be considered to be an attainment year for purposes of demonstrating the connection between emissions and the improvement in air quality and for demonstrating maintenance of the 8-hour ozone standard.

on high-ozone days. The cumulative VOC and NO_X emissions reductions in these Counties have contributed to the observed air quality improvement in Delaware County. Past ozone data analyses and ozone modeling conducted by the States in the Lake Michigan Air Directors Consortium (LADCO) have demonstrated that peak ozone levels throughout the Upper Midwest are significantly impacted by pollutant transport from upwind areas. Therefore, regional emissions reductions are assumed to have contributed to the air quality improvement in Delaware County.

IDEM notes that the NO_X emissions in this area (Delaware County and the Central Indiana Counties) are decreasing primarily in response to national emission control programs affecting all Electric Generating Units (EGUs), including the acid rain control program and the NO_X SIP call. The VOC reduction in Delaware County is due to a plant closure, which IDEM considers to be permanent and enforceable. The VOC emissions reduction in Marion County is primarily due to mobile source emission controls, including the Federal Motor Vehicle Emissions Control Program, and to implementation of emission controls on stationary sources.

Emission Control Measures Implemented in Delaware County

To support the conclusion that the air quality improvement in Delaware County is due to permanent and enforceable emission reductions, IDEM documented the emission controls that have been implemented in Delaware County and in nearby, upwind Counties. The following discusses the emission controls that have been implemented in this area:

a. *Reasonably Available Control Technology (RACT).* IDEM notes that Delaware County was not previously required to be covered by RACT rules for existing sources under the CAA. Statewide RACT rules, however, have been required by Indiana and implemented through the following RACT rules:

326 IAC 8–1–6 Best Available Control Technology (BACT) for some Sources;

326 IAC 8–2 Surface Coating Emission Limitations;

326 IAC 8–3 Organic Solvent Degreasing Operations;

326 IAC 8–4 Petroleum Sources;

326 IAC 8–5 Miscellaneous Operations;

326 IAC 8–6 Organic Solvent Emission Limitations;

326 IAC 8–8.1 Landfill Emission Controls; and,

326 IAC 8–10 Auto Body Refinishing.

b. NO_X Rules. Under EPA's NO_X SIP call, Indiana was required to adopt and implement NO_X emission control requirements for EGUs, industrial boilers, and cement kilns. Indiana has adopted the required emission control rules. Emission reductions resulting from these rules were required to begin in 2004, and should ultimately reduce NO_X emissions by 31 percent statewide, with the emission reductions increasing through 2007. Note that statewide NO_X emissions actually began to decline in 2002 as sources phased in emission controls needed to comply with the State's NO_X emission control regulations. From 2004 on, NO_X emissions from EGUs are capped at a statewide total well below pre-2002 levels. As noted below, NO_X emissions are expected to decline further as the State meets the requirements of EPA's Phase II NO_X SIP call.

c. *Federal Emission Control Measures.* Reductions in VOC and NO_X emissions have occurred statewide as a result of Federal emission control measures, with additional emission reductions expected to occur in the future as additional emission controls are implemented. The Federal emission control measures have included: (1) National low emission vehicle standards; (2) Tier II emission standards for vehicles; (3) gasoline sulfur limits; and, (4) heavy-duty diesel engine standards. In addition, in 2004, EPA issued the Clean Air Non-road Diesel Rule. This rule will reduce off-road diesel emissions through 2010, with emission reductions starting in 2008.

Based on the information summarized above, we conclude that Indiana has adequately demonstrated that emissions have declined between 2000 and 2002 in Delaware County and in its upwind counties as a result of permanent and enforceable emission controls. Available ozone modeling (see the discussion of available ozone modeling in the section addressing the ozone maintenance plan below) shows that local VOC emission reductions and regional NO_X emission reductions lead to lower ozone levels in this area. Based on this observation and the documentation of the emission reductions between 2000 and 2002, we conclude that the VOC and NO_X emission reductions that occurred between 2000 and 2002 have contributed to the reduction in peak ozone levels that have been observed in Delaware County between the periods of 2001–2003 and 2002–2004.

4. Delaware County Has a Fully Approvable Ozone Maintenance Plan Pursuant to Section 175A of the CAA

In conjunction with the request for the redesignation of Delaware County to attainment of the 8-hour ozone NAAQS, IDEM submitted a requested SIP revision to provide for maintenance of the 8-hour ozone NAAQS in Delaware County for at least 10 years after the redesignation of this area to attainment of the NAAQS, through 2015.

a. What Is Required in an Ozone Maintenance Plan?

Section 175A of the CAA sets forth the required elements of maintenance plans for areas seeking redesignation from nonattainment to attainment. Under section 175A, a maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves the redesignation to attainment. The State must submit a revised maintenance plan eight years after the redesignation which demonstrates that attainment will continue to be maintained for ten years following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the 8-hour ozone maintenance plan must contain contingency measures, with a schedule for implementation, as EPA deems necessary, to assure prompt correction of any future ozone standard violation.

The September 4, 1992 John Calcagni memorandum provides additional guidance on the content of maintenance plans. An ozone maintenance plan should address the following items: (1) The attainment VOC and NO_X emissions inventories; (2) a maintenance demonstration showing maintenance for the ten years of the maintenance period; (3) a commitment to maintain the existing monitoring network; (4) factors and procedures to be used for verification of continued attainment of the NAAQS; and,

(5) a contingency plan to prevent or correct future violations of the NAAQS.

b. Attainment Emissions Inventories

IDEM prepared and documented comprehensive VOC and NO_X emissions inventories for Delaware County and the Central Indiana Counties for 2002, the base/attainment year. These emissions include point (significant stationary sources), area (smaller stationary sources and widely-distributed sources), mobile on-road, and mobile non-road sources.

To develop the attainment year emissions inventories, IDEM used the

following approaches and sources of data:

Area Sources—Area source VOC and NO_X emissions were taken from the Indiana 2002 periodic emissions inventory, which was previously submitted to the EPA. The area source emission estimates were derived using United States Department of Commerce Bureau of Economic Analysis (BEA) growth factors to project emissions to 2002 from prior years.

Mobile On-Road Sources—Mobile on-road emissions were calculated using MOBILE6 emission factors. Traffic data (vehicle miles traveled, vehicle speeds, and vehicle type and age distributions) for 2002 were calculated using the travel demand model and post-processor provided by the Delaware-Muncie Municipal Planning Commission (DMMPC). IDEM has provided detailed data summaries to document the calculation of mobile on-road VOC and NO_X emissions for 2002, as well as for the projection years of 2010 and 2015 (further discussed below).

Point Source Emissions—2002 point source emissions were compiled from IDEM's 2002 annual emissions statement database and from the 2002 EPA Air Markets acid rain emissions inventory database.

Mobile Non-Road Emissions—Non-road mobile source emissions were generated by the EPA and documented in the 2002 National Emissions Inventory (NEI). In addition to the data taken from the NEI, IDEM also considered updated and revised emissions obtained from LADCO. IDEM also used data supplied by LADCO contractors to determine and assign emissions by county for railroads, recreational motorboats, and construction equipment. The emissions from construction equipment were revised based on surveys completed in the Midwest.

The 2002 attainment year VOC and NO_X emissions for Delaware County are summarized along with the 2010 and 2015 projected emissions for Delaware County in Table 4 below. It is our conclusion that the State has adequately derived and documented the attainment year VOC and NO_X emissions for this area.

c. Demonstration of Maintenance

As part of its August 25, 2005 ozone redesignation request submittal, IDEM requested revision of the SIP to include a 10-year ozone maintenance plan as required by section 175A of the CAA. This submission shows maintenance of the 8-hour ozone NAAQS by demonstrating that current and future emissions of VOC and NO_X remain at or below the attainment year emissions levels.[5] Note that a maintenance demonstration may be based on projected emissions and need not be based on ozone modeling. See *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004). See also 66 FR 53094, 53099–53100 (October 19, 2001) and 68 FR 25430–25432 (May 12, 2003).

Table 4 summarizes the VOC and NO_X emissions for Delaware County for 2002, 2010, and 2015 in Tons Per Summer Day (TPSD). IDEM chose 2010 as an interim year in the 10-year maintenance demonstration period to show that the VOC and NO_X emissions are not projected to increase above the 2002 attainment levels in the middle of the 10-year period.

TABLE 4.—ATTAINMENT YEAR (2002) AND PROJECTED VOC AND NO_X EMISSIONS IN DELAWARE COUNTY (TPSD)

Source sector	VOC			NO_X		
	2002	2010	2015	2002	2010	2015
Point	0.83	1.00	1.17	0.35	0.37	0.39
Area	9.79	11.48	12.67	1.43	1.54	1.58
On-Road	8.19	4.69	3.33	13.89	7.66	4.59
Non-Road	9.23	5.43	5.28	4.11	3.29	2.74
Total	28.04	22.60	22.45	19.78	12.86	9.30

The emission projections show that in Delaware County, emissions are not expected to exceed the levels of the 2002 attainment year inventory during the 10-year maintenance period. Delaware County VOC and NO_X emissions are projected to decrease by 5.59 TPSD and 10.48 TPSD, respectively, between 2002 and 2015.

Emission control measures to remain in effect. Indiana commits to maintain the implemented emission control measures after redesignation of Delaware County to attainment of the 8-hour ozone NAAQS. Any revisions to emission control regulations and emission limits will be submitted to the EPA for approval as SIP revisions.

Modeling support for the impact of emission changes on air quality and further improvements in air quality. IDEM notes that, although ozone modeling is not required to support ozone redesignation requests, a significant amount of ozone modeling data exist that support the connection between emission reductions and air quality improvement, including ozone modeling data that support a demonstration of maintenance for Delaware County. IDEM notes that the available ozone modeling data demonstrate that Delaware County is significantly impacted by ozone and ozone precursor transport and that regional NO_X emission reductions are significantly beneficial for reducing 8-hour ozone concentrations in Delaware County.

IDEM draws the following conclusions from the various ozone modeling analyses that have addressed the Midwest:

i. *EPA Modeling Analyses for the Heavy Duty Engine Rule.* EPA conducted ozone modeling for the Tier II vehicles and low-sulfur fuels to support the final rulemaking for the Heavy Duty Engine (HDE) standards and highway diesel fuel rule (Tier II/Low Sulfur Fuel Rule). This modeling, in part, addressed ozone levels in Delaware County and the Central Indiana Counties. A base year of 1996 was modeled, and impacts of fuel changes and the NO_X SIP call were

[5] The attainment year can be any year of the three consecutive years where the area has recorded clean air quality data (2002, 2003, or 2004 for Delaware County). 2002 is the recommended base year for ozone attainment and rate-of-progress demonstrations, as discussed in a November 18, 2002 memorandum, ''2002 Base Year Emission Inventory SIP planning: 8-hr Ozone, $PM_{2.5}$ and Regional Haze Programs,'' from Lydia N. Wegman, Director, Air Quality Strategies and Standards Division, Office of Air Quality Planning and Standards. As noted here, Indiana chose to use 2002 as the attainment year because the State was already preparing emissions for this year to prepare the base year emissions inventory.

modeled using high ozone episodes in 1995. The modeling supports the conclusion that the fuel improvements and the NO_X SIP call should result in significant ozone improvements (lower projected ozone concentrations) in Delaware County and in the Central Indiana Counties. Using the modeling results to determine Relative Reduction Factors (RRFs)[6] and considering the 2001–2003 ozone design value (88 ppb) for the Albany Elementary monitoring site, IDEM projected the 2007 ozone design value for the Albany Elementary monitor to be 81.4 ppb. Therefore, the NO_X SIP call and fuel modifications considered in the ozone modeling were found to significantly improve the ozone levels in Delaware County.

ii. *LADCO Modeling Analysis for the 8-Hour Ozone Standard Assessment.* LADCO has performed ozone modeling to evaluate the effects of the NO_X SIP call and Tier II/Low Sulfur Fuel Rule on 2007 ozone levels in the Lake Michigan area, which includes Delaware County and the Central Indiana Counties. Like the EPA modeling discussed above, this modeling indicates that the ozone design value for the Albany Elementary monitoring site would be significantly reduced by 2007 as the result of implementing the NO_X SIP call and the Tier II/Low Sulfur Fuel Rule.

The modeling results indicate that ozone levels will continue to drop in Delaware County as the modeled emission control programs are implemented. It should be noted that the improved air quality resulting from the existing Federal rules will be supplemented by additional emission reductions resulting from the implementation of the Clean Air Interstate Rule (CAIR) promulgated by the EPA on March 10, 2005, 70 FR 25161. CAIR is expected to further reduce the transport of NO_X and ozone into Delaware County as the result of decreased NO_X emissions outside of Delaware County.

d. Monitoring Network

Indiana currently operates one ozone monitor in Delaware County. IDEM has committed to continue operating and maintaining an approved ozone monitor in Delaware County.

[6] Relative Reduction Factors are fractional changes in peak ozone concentrations projected to occur as the result of changes in ozone precursor emissions resulting from the implementation of emission control strategies. Relative Reduction Factors derived through the ozone modeling area applied to monitored peak ozone concentrations to project post-control peak ozone levels.

e. Verification of Continued Attainment

Continued attainment of the ozone NAAQS in Delaware County depends, in part, on the State's tracking of indicators of continued attainment during the maintenance period. The State's plan for verifying continued attainment of the 8-hour standard in Delaware County consists of plans to continue ambient ozone monitoring in accordance with the requirements of 40 CFR part 58. In addition, IDEM will periodically revise and review the VOC and NO_X emissions inventories for Delaware County to ensure that emissions growth is not threatening the continued attainment of the 8-hour ozone standard. Emissions inventories will be revised for 2005, 2008, and 2011, as necessary to comply with the emissions inventory reporting requirements of the CAA. The updated emissions inventories will be compared to the 2002 emissions inventories to assess emission trends and assure continued attainment of the 8-hour ozone standard.

f. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the State will promptly correct a violation of the NAAQS that might occur after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all measures with respect to control of the pollutant(s) that were contained in the SIP before redesignation of the area to attainment. See section 175A(d) of the CAA.

As required by section 175A of the CAA, Indiana has adopted a contingency plan for Delaware County to address a possible future ozone air quality problem. The contingency plan adopted by Indiana has two levels of responses, depending on whether a violation of the 8-hour ozone standard is only threatened (Warning Level) or is imminent or has occurred (Action Level).

A Warning Level response will occur when an annual (1-year) fourth-high monitored daily peak 8-hour ozone concentration of 88 ppb or higher is monitored in a single ozone season at any monitor within the ozone maintenance area. A Warning Level response will consist of Indiana performing a study to determine whether the high ozone concentration indicates a trend toward high ozone levels or whether emissions are increasing. If a trend toward higher ozone concentrations exists and is likely to continue, the emissions control measures necessary to reverse the trend will be determined, taking into consideration ease and timing of implementation, as well as economic and social considerations. The study, including applicable recommended next steps, will be completed within 12 months from the close of the ozone season with the recorded high ozone concentration. If emission controls are needed to reverse the adverse ozone trend, the procedures for emission control selection under the Action Level response will be followed.

An Action Level response will occur when a two-year average annual fourth-high monitored daily peak 8-hour ozone concentration of 85 ppb or greater occurs at any monitor in the ozone maintenance area or when a violation of the 8-hour ozone standard occurs at any monitor in the ozone maintenance area (Delaware County).[7] In this situation, IDEM will determine the additional emission control measures needed to assure future attainment of the 8-hour ozone NAAQS. IDEM will focus on emission control measures that can be implemented in a short time, and selected emission control measures will be adopted and implemented within 18 months from the close of the ozone season with ozone monitoring data that prompted the Action Level response. Adoption of any additional emission control measures will be subject to the necessary administrative and legal procedures, including publication of notices and the opportunity for public comment and response. If a new emission control measure is adopted by

[7] On October 20, 2005, IDEM submitted a letter which verified the State's intent to activate an Action Level response in the event of a violation of the 8-hour ozone NAAQS in several areas, including Delaware County. The ozone maintenance plan submitted on August 25, 2005 could be interpreted to require an Action Level response only in the event that the average annual fourth-high daily maximum 8-hour ozone concentration equaled 85 ppb. Therefore, a violation of the 8-hour ozone standard would theoretically not have triggered an Action Level response under certain circumstances. The October 20, 2005 submittal rectified this potential problem.

the State (independent of the ozone contingency needs) or is adopted at a Federal level and is scheduled for implementation in a time frame that will mitigate an ozone air quality problem, IDEM will determine whether this emission control measure is sufficient to address the ozone air quality problem. If IDEM determines that existing or soon-to-be-implemented emissions control measures are adequate to correct the ozone standard violation problem, IDEM may determine that additional emission control measures at the State level may be unnecessary. Regardless, IDEM will submit to the EPA an analysis to demonstrate that proposed emission control measures are adequate to provide for future attainment of the 8-hour ozone NAAQS in a timely manner. EPA notes that it is construing this provision to require that any non-federal control measure relied upon in lieu of a contingency measure will be adopted by the State for inclusion in the State SIP and will be submitted to EPA for approval as a revision of the SIP.

Contingency measures contained in the maintenance plans are those emission controls or other measures that Indiana may choose to adopt and implement to correct possible air quality problems. These include, but are not limited to, the following:

i. Lower Reid vapor pressure gasoline requirements;

ii. Broader geographic applicability of existing emission control measures;

iii. Tightened RACT requirements on existing sources covered by EPA Control Technique Guidelines (CTGs) issued in response to the 1990 CAA amendments;

iv. Application of RACT to smaller existing sources;

v. Vehicle Inspection and Maintenance (I/M);

vi. One or more Transportation Control Measures (TCMs) sufficient to achieve at least a 0.5 percent reduction in actual area-wide VOC emissions, to be selected from the following:

A. Trip reduction programs, including, but not limited to, employer-based transportation management plans, area-wide rideshare programs, work schedule changes, and telecommuting;

B. Transit improvements;

C. Traffic flow improvements; and

D. Other new or innovative transportation measures not yet in widespread use that affect State and local governments as deemed appropriate;

vii. Alternative fuel and diesel retrofit programs for fleet vehicle operations;

viii. Controls on consumer products consistent with those adopted elsewhere in the United States;

ix. VOC or NO_X emission offsets for new or modified major sources;

x. VOC or NO_X emission offsets for new or modified minor sources;

xi. Increased ratio of the emission offset required for new sources; and,

xii. VOC or NO_X emission controls on new minor sources (with VOC or NO_X emissions less than 100 tons per year).

g. Provisions for Future Updates of the Ozone Maintenance Plan

As required by section 175A(b) of the CAA, Indiana commits to submit to the EPA an update of the ozone maintenance plan eight years after redesignation of Delaware County to cover an additional 10-year period beyond the initial 10-year maintenance period.

EPA has concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. The maintenance plan SIP revision submitted by Indiana for Delaware County meets the requirements of section 175A of the CAA, and, therefore is approved.

V. Has Indiana Adopted Acceptable Motor Vehicle Emissions Budgets (MVEBs) for the End of the 10-Year Maintenance Plan (for 2015) Which Can Be Used To Support Conformity Determinations?

A. How are MVEBs developed and what are the MVEBs for Delaware County?

Under the CAA, states are required to submit, at various times, control strategy SIP revisions and ozone maintenance plans for applicable areas (for ozone nonattainment areas and for areas seeking redesignations to attainment of the ozone standard). These emission control strategy SIP revisions (*e.g.*, reasonable further progress SIP and attainment demonstration SIP revisions) and ozone maintenance plans create MVEBs based on on-road mobile source emissions for criteria pollutants and/or their precursors to address pollution from cars and trucks. The MVEBs are the portions of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance.

Under 40 CFR part 93, a MVEB for an area seeking a redesignation to attainment is established for the last year of the maintenance plan. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB if needed.

Under section 176(c) of the CAA, new transportation projects, such as the construction of new highways, must ''conform'' to (*i.e.*, be consistent with) the part of the SIP that addresses emissions from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the NAAQS. If a transportation plan does not conform, most new transportation projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP.

When reviewing SIP revisions containing MVEBs, including attainment strategies, rate-of-progress plans, and maintenance plans, EPA must affirmatively find that the MVEBs are ''adequate'' for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEBs to be adequate for transportation conformity purposes, the MVEBs are used by state and federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the Clean Air Act. EPA's substantive criteria for determining the adequacy of MVEBs are set out in 40 CFR 93.118(e)(4).

EPA's process for determining adequacy of a MVEB consists of three basic steps: (1) Providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the MVEB during a public comment period; and (3) making a finding of adequacy. The process of determining the adequacy of submitted SIP MVEBs was initially outlined in EPA's May 14, 1999 guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' This guidance was finalized in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change'' published on July 1, 2004 (69 FR 40004). EPA follows this guidance and

rulemaking in making its adequacy determinations.

Delaware County's 10-year maintenance plan submission contains new VOC and NO_X MVEBs for 2015. The availability of the SIP submissions with these 2015 MVEBs was announced for public comment on EPA's adequacy Web page on August 2, 2005, at: *http://www.epa.gov/otaq/transp/conform/currsips.htm*. The EPA public comment period on adequacy of the 2015 MVEBs for Delaware County closed on September 1, 2005. No requests for this submittal or adverse comments on this submittal were received during the adequacy comment period. On November 7, 2005, EPA informed the State of Indiana, through a letter, that the 2015 MVEBs are adequate for the purposes of transportation conformity analyses.

EPA, through this rulemaking, is approving the MVEBs for use to determine transportation conformity in Delaware County because EPA has determined that the area can maintain attainment of the 8-hour ozone NAAQS for the relevant 10-year period with mobile source emissions at the levels of the MVEBs. IDEM has determined the 2015 MVEBs for Delaware County to be 3.50 tpd for VOC and 4.82 tpd for NO_X. It should be noted that these MVEBs exceed the on-road mobile source VOC and NO_X emissions projected by IDEM for 2015, as summarized in Table 4 above (''on-road'' source sector). IDEM decided to include safety margins (described further below) of 0.17 tpd of VOC and 0.23 tpd for NO_X in the MVEBs to provide for mobile source growth. Indiana has demonstrated that Delaware County can maintain the 8-hour ozone NAAQS with mobile source emissions of 3.50 tpd of VOC and 4.82 tpd of NO_X in 2015, including the allocated safety margins, since emissions will still remain under attainment year emission levels.

B. What is a safety margin?

A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As noted in Table 4, Delaware County VOC and NO_X emissions are projected to have safety margins of 5.59 tpd for VOC and 10.48 tpd for NO_X in 2015 (the difference between the attainment year, 2002, emissions and the 2015 emissions for all sources in Delaware County). Even if emissions reached the full level of the safety margin, the counties would still demonstrate maintenance since emission levels would equal those in the attainment year.

The MVEBs requested by IDEM contain safety margins for mobile sources significantly smaller than the allowable safety margins reflected in the total emissions for Delaware County. The State is not requesting allocation of the entire available safety margins reflected in the demonstration of maintenance. Therefore, even though the State is requesting MVEBs that exceed the on-road mobile source emissions for 2015 contained in the demonstration of maintenance, the increase in on-road mobile source emissions that can be considered for transportation conformity purposes is well within the safety margins of the ozone maintenance demonstration. Further, once allocated to mobile sources, these safety margins will not be available for use by other sources.

C. Are the MVEBs approvable?

The VOC and NO_X MVEBs for Delaware County are approvable because they maintain the total emissions for Delaware County at or below the attainment year inventory levels, as required by the transportation conformity regulations.

VI. Final Actions

EPA is making a determination that Delaware County has attained the 8-hour ozone NAAQS, and EPA is approving the redesignation of Delaware County from nonattainment to attainment for the 8-hour ozone NAAQS. After evaluating Indiana's redesignation request, EPA has determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. The final approval of this redesignation request would change the official designation for Delaware County from nonattainment to attainment for the 8-hour ozone standard.

EPA is also approving the maintenance plan SIP revision for Delaware County. Approval of the maintenance plan is based on Indiana's demonstration that the plan meets the requirements of section 175A of the CAA, as described more fully above. Additionally, EPA is finding adequate and approving the 2015 MVEBs submitted by Indiana in conjunction with the redesignation request.

We are publishing these actions without prior proposal because we view these actions as non-controversial and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the State plan if relevant adverse written comments are filed. This rule will be effective January 3, 2006 without further notice unless we receive relevant adverse written comments by December 16, 2005. If we receive such comments, we will publish a timely withdrawal of the action, informing the public that the rule will not take effect. EPA will respond to the public comments in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period.

Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective January 3, 2006.

VII. Statutory and Executive Order Reviews

Executive Order 12866; Regulatory Planning and Review

Under Executive Order 12866 (*58 FR 51735*, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant energy action,'' this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (*66 FR 28355*, May 22, 2001).

Regulatory Flexibility Act

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(E) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13175 Consultation and Coordination With Indian Tribal Governments

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (59 FR 22951, November 9, 2000).

Executive Order 13132 Federalism

This action also does not have federalism implications because it does not have substantial direct effects on the states, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (*64 FR 43255*, August 10, 1999). Redesignation is an action that merely affects the status of a geographical area, does not impose any new requirements on sources, or allows a state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13045 Protection of Children From Environmental Health and Safety Risks

This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (*62 FR 19885*, April 23, 1997), because it is not economically significant.

National Technology Transfer Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 17, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

40 CFR Part 81

Air pollution control, Environmental protection, National parks, Wilderness areas.

Dated: November 9, 2005.

Margaret Guerriero,

Acting Regional Administrator, Region 5.

■ Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart P—Indiana

■ 2. Section 52.777 is amended by adding paragraph (cc) to read as follows:

§ 52.777 Control strategy: photochemical oxidants (hydrocarbons).

* * * * *

(cc) Approval—On August 25, 2005, Indiana submitted a request to redesignate Delaware County to attainment of the 8-hour ozone National Ambient Air Quality Standard. This request was supplemented with a submittal dated October 20, 2005. As part of the redesignation request, the State submitted a maintenance plan as required by section 175A of the Clean Air Act. Elements of the section 175 maintenance plan include a contingency plan and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. Also included were motor vehicle emission budgets for use to determine transportation conformity in Delaware County. The 2015 motor vehicle emission budgets for Delaware County are 3.50 tons per day for VOC and 4.82 tons per day for NO_X.

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. Section 81.315 is amended by revising the entry for Muncie, IN: Delaware County in the table entitled ''Indiana Ozone (8–Hour Standard)'' to read as follows:

§ 81.315 Indiana.

* * * * *

INDIANA OZONE
[8-Hour standard]

Designated area	Designation[a]		Classification	
	Date[1]	Type	Date[1]	Type
* * *	*	*	*	*
Muncie, IN: Delaware County	1/3/06	Attainment		
* * *	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.

[FR Doc. 05–22696 Filed 11–15–05; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[VA139–5073a; FRL–7997–6]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Emissions From Hospital/Medical/Infectious Waste Incinerator Units; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correcting amendment.

SUMMARY: This document corrects an error in the rule Summary language of a final rule pertaining to EPA's approval of the Commonwealth of Virginia hospital/medical/infectious waste incinerator (HMIWI) section 111(d)/129 plan submitted by the Virginia Department of Environmental Quality (DEQ).

DATES: *Effective* November 16, 2005.

FOR FURTHER INFORMATION CONTACT: James B. Topsale, at (215) 814–2190 or by e-mail at *topsale.jim@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' or ''our'' are used we mean EPA. On September 10, 2004 (69 FR 54753), we published a final rulemaking action announcing our approval of the Commonwealth of Virginia hospital/medical/infectious waste incinerator (HMIWI) section 111(d)/129 plan. In that document, we inadvertently included language relating to commercial and industrial solid waste incinerator units in the rule Summary. The intent of the rule Summary was to briefly describe the applicability and scope of the rule. This action corrects the erroneous language.

In rule document 04–20429 published in the **Federal Register** on September 10, 2004 (69 FR 54753), on page 54753 of the Summary, first column, revise the third sentence to read, ''The plan establishes emission limits, monitoring, operating, and recordkeeping requirements for HMIWI units for which construction commenced on or before June 20, 1996.'' This revision is consistent with the promulgated Identification of Sources Provision, section 62.11626, of the noted rule and the related emissions guidelines under 40 CFR part 60, subpart Ce.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Statutory and Executive Order Reviews

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 Fed. Reg. 28355 (May 22, 2001)). Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of

the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of November 16, 2005. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to the rule Summary (VA139–5073a) for Virginia is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfur acid plants, Waste treatment and disposal.

Dated: November 8, 2005.

Donald S. Welsh,

Regional Administrator, EPA Region III.

[FR Doc. 05–22701 Filed 11–15–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2004–0326; FRL–7741–7]

S-metolachlor; Pesticide Tolerance Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: EPA issued a final rule in the **Federal Register** of August 31, 2005 concerning regulations establishing tolerances for combined residues (free and bound) of S-metolachlor in or on certain commodities as set forth in Unit II. of the **SUPPLEMENTARY INFORMATION** of that document. This document is being issued to correct errors in the amendatory language and amendments.

DATES: This final rule is effective on August 31, 2005.

ADDRESSES: Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** final rule of August 31, 2005.

FOR FURTHER INFORMATION CONTACT: Sidney Jackson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

Please refer to the final rule that published on August 31, 2005 for general information about potentially affected entities and accessing this document electronically.

II. What Does This Correction Do?

EPA published in the **Federal Register** of August 31, 2005 (70 FR 51628) (FRL–7716–1) regulations establishing tolerances for combined residues of S-metoclachlor in or on certain commodities as set forth in Unit II of the **SUPPLEMENTARY INFORMATION** of that document. Portions of the regulatory amendments and the regulatory text were set out incorrectly. This document is being published to correct those errors.

III. Why Is This Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's technical correction final without prior proposal and opportunity for comment, because the use of notice and comment procedures are unnecessary to effectuate this correction. As such, EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

IV. Do Any of the Statutory and Executive Order Reviews Apply to This Action?

No. This action only corrects errors in the amendatory language for a previously published final rule and does not impose any new requirements. EPA's compliance with the statutes and Executive Orders for the underlying rule is discussed in Unit VII. of the August 31, 2005, final rule (70 FR 51628).

V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule '' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 28, 2005.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

■ Therefore, 40 CFR part 180 is corrected as follows:

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

§ 180.368 [Corrected]

■ 2. On page 51637, in the second column, in the amendments to § 180.368, amendatory instruction 2. iii. should read: By designating the existing

text as (c)(1) and adding paragraph (c)(2).

§ 180.368 [Corrected]

■ 3. On pages 51637 and 51638, in the third and first columns respectively, in the table to § 180.368 (a)(3), remove the stars wherever they appear.

[FR Doc. 05–22609 Filed 11–15–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2005–0270; FRL–7740–1]

Sulfosulfuron; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of sulfosulfuron and its metabolites in or on Bahiagrass, forage; Bahiagrass, hay; Bermudagrass, forage; Bermudagrass, hay; milk; fat (of cattle, goat, horse and sheep); meat (of cattle, goat, horse and sheep); and meat byproducts (of cattle, goat, horse and sheep). This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on Bahiagrass and Bermudagrass pastures and hayfields. This regulation establishes maximum permissible levels for residues of sulfosulfuron in these food commodities. The tolerances will expire and are revoked on December 31, 2009.

DATES: This regulation is effective November 16, 2005. Objections and requests for hearings must be received on or before January 17, 2006.

ADDRESSES: To submit a written objection or hearing request follow the detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.** EPA has established a docket for this action under Docket identification (ID) number OPP–2005–0270. All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9364; e-mail address: *pemberton.libby@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of This Document and Other Related Information?

In addition to using EDOCKET *(http://www.epa.gov/edocket/)*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available on E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408 (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for combined residues of the herbicide sulfosulfuron, [1-(4,6-dimethoxypyrimidin-2yl)-3-[(2-ethanesulfonyl-imidazo[1,2-a]pyridine-3-yl)sulfonyl]urea and metabolites converted to 2-(ethylsulfonyl)-imidazo[1,2-a]pyridine (calculated as sulfosulfuron), in or on Bahiagrass, forage at 11 parts per million (ppm); Bahiagrass, hay at 40 ppm; Bermudagrass, forage at 11 ppm; Bermudagrass, hay at 40 ppm; milk at 0.02 ppm; fat (of cattle, goat, horse and sheep) at 0.04 ppm; meat (of cattle, goat, horse and sheep) at 0.02 ppm; and meat byproducts (cattle, goat, horse and sheep) at 0.50 ppm. These tolerances will expire and are revoked on December 31, 2009. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 of the FFDCA and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and

children from aggregate exposure to the pesticide chemical residue. . ..''

Section 18 of the FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act of 1996 (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Sulfosulfuron on Bahia and Bermudagrass Pastures and Hayfields and FFDCA Tolerances

Alabama, Georgia, Louisiana, Mississippi and Oklahoma indicate that, with the removal of imazapic from the hay and pasture market, there is no available control for Johnsongrass in Bahiagrass and/or Bermudagrass pasture and hayfields. Growers may experience significant losses without sulfosulfuron to control Johnsongrass. Johnsongrass reduces Bermudagrass hay quality and value. Additionally, under stressful conditions such as drought, frost or trampling, Johnsongrass may produce prussic acid which is toxic to livestock. Imazapic, the herbicide previously used to control Johnsongrass, was removed from the pasture and hay market in January 2004 resulting in the need for an emergency replacement. EPA has authorized under FIFRA section 18 the use of sulfosulfuron on Bahiagrass and Bermudagrass pasture and hayfields for control of Johnsongrass in Alabama, Georgia, Louisiana, Mississippi, and Oklahoma. After having reviewed the submissions, EPA concurs that emergency conditions exist for these States.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of sulfosulfuron in or on forage and hay associated with both Bermudagrass and Bahiagrass, as well as on various animal commodities for which residues may be present. In doing so, EPA considered the safety standard in section 408(b)(2) of the FFDCA, and EPA decided that the necessary tolerances under section 408(l)(6) of the FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemptions in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6) of the FFDCA. Although these tolerances will expire and are revoked on December 31, 2009, under section 408(l)(5) of the FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on forage and hay associated with both Bermudagrass and Bahiagrass, as well as on the various associated animal commodities after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether sulfosulfuron meets EPA's registration requirements for use on Bermudagrass or Bahiagrass or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of sulfosulfuron by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Alabama, Georgia, Louisiana, Mississippi, and Oklahoma to use this pesticide on these crops under section 18 of FIFRA without following all provisions of EPA's regulations implementing FIFRA section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for sulfosulfuron, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of sulfosulfuron and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for time-limited tolerances for combined residues of sulfosulfuron and its metabolites (calculated as sulfosulfuron) in or on Bahiagrass, forage at 11 ppm; Bahiagrass, hay at 40 ppm; Bermudagrass, forage at 11 ppm; Bermudagrass, hay at 40 ppm; milk at 0.02 ppm; fat (of cattle, goat, horse and sheep) at 0.04 ppm; meat (of cattle, goat, horse and sheep) at 0.02 ppm; and meat byproducts (cattle, goat, horse and sheep) at 0.50 ppm. EPA's assessment of the dietary exposures and risks associated with establishing these tolerances follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA SF.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases

(e.g., risk is expressed as 1 x 10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for sulfosulfuron used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR SULFOSULFURON FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	Hazard and Exposure Based Special FQPA Safety Factor	Study and Toxicological Effects
Acute Dietary; all populations	A dose and endpoint was not selected for acute dietary risk assessment because there were no effects attributable to a single dose (exposure) in the oral toxicology studies including developmental toxicity studies in the rat and the rabbit and an acute neurotoxicity study in the rat.	NA	NA
Chronic Dietary all populations	NOAEL= 24 mg/kg/day UF[1] = 100 Chronic RfD = 0.24 mg/kg/day	FQPA SF = 1 cPAD = cRfD ÷ FQPA SF cPAD = 0.24 mg/kg/day	Chronic toxicity/carcinogenicity - rat; LOAEL = 244.2 mg/kg/day based on urinary tract pathology,abnormal cyrtals and urinary calculi (both sexes); mineraliztion in heart, lung, pancreas, and skeletal muscles (male)
Short-,Intermediate- Long-Term Dermal	No dermal or systemic toxicity was seen following repeated dermal application at the limit dose in a 21–day dermal toxicity study in rats. Therefore, this risk assessment is not required.	NA	NA
Inhalation (Any time period)	Based on the low acute inhalation toxicity (Category IV; no mortality at 3 mg/L), the formulation of the product as wettable granules, and the low application rates for the proposed use patterns ranging from 25 - 70 g a.i./hectare (10-28 g a.i./acre), there is minimal concern for potential inhalation exposure and risk. Therefore, a separate inhalation risk assessment is not required.	NA	NA
Cancer	Likely human carcinogen - Q1* = 1.03 x 10^{-3} $(mg/kg/day)^{-1}$ in human equivalents (converted from animals to humans by use of the $BW^{3/4}$'s scaling factor)	NA	NA

[1] uncertainty factor; 10x for intraspecies variation and 10x for interspecies variation
* The reference to the FQPA SF refers to any additional SF retained due to concerns unique to the FQPA.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.552) for the combined residues of sulfosulfuron, in or on wheat grain, forage, hay, staw and related milk and meat commodities. Risk assessments were conducted by EPA to assess dietary exposures from sulfosulfuron in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. As summarized in Table 1 (above), EPA's review has concluded that sulfosulfuron has low acute oral, dermal, and inhalation toxicity. It is non-irritating to skin and slightly irritating to eyes. It is not a skin sensitizer. EPA has not selected toxicity endpoints for acute exposure reflecting the low hazard associated with acute exposure to this chemical.

ii. *Chronic exposure and cancer assessement.* Chronic and cancer dietary risk assessments were conducted using Lifeline™ (ver. 2.00) and the Dietary Exposure Evaluation Model - Food Consumption Intake Database (DEEM-FCID™, ver. 1.30) models. Both of these models use food consumption data from the USDA's Continuing Surveys of Food Intakes by Individuals (CSFII); 1994–1996 and 1998).

The chronic and cancer analyses assumed tolerance level residues, 100% crop treated, and DEEM™ (ver. 7.76) default processing factors. The Lifeline™ chronic exposure estimates were <1% cPAD for all population subgroups (therefore less than EPA's level of concern). The Lifeline™ lifetime cancer risk for the U.S. population is 2.0 x 10^{-7} (therefore less than EPA's level of concern for the general U.S. population). DEEM-FCID™ resulted in chronic (<1% cPAD; children 1-2 years old were the most highly exposed subgroup) and cancer

(2.1×10^{-7}) exposure estimates similar to Lifeline™.

In accordance with the Agency's Proposed Guidelines for Carcinogenic Risk Assessment (April 10, 1996), EPA has classified sulfosulfuron as a likely human carcinogen. The weight-of-evidence for this classification includes: (1) Occurrence of rare transitional cell papilloma (benign tumors) and carcinoma of the urinary bladder in female rats; (2) occurrence of rare benign mesenchymal tumors of the urinary bladder in high dose male as well as renal adenomas in female and possibly male mice, and (3) the relevancy of the observed tumors to human exposure.

EPA utilizes a linear low-dose approach (Q1*) for human risk characterization and extrapolation of risk should be based on the incidence of benign mesenchymal tumors in male mice. The rat transitional cell tumors and mouse renal adenomas were not used because of their low incidence. This extrapolation, rather than an MOE approach, is supported by the lack of sufficient data to characterize the mechanism of carcinogenicity. The unit risk, Q1* (in milligrams/kilograms/day) $(mg/kg/day)^{-1}$ of sulfosulfuron based upon male mouse urinary bladder mesenchymal tumor rates is 1.03×10^{-3} $(mg/kg/day)^{-1}$ in human equivalents.

iii. *Anticipated residue and percent crop treated (PCT) information*. EPA did not use PCT information in this assessment. As stated above, EPA has performed a conservative assessment utilizing an assumption of 100% crop treated, and 100% tolerance levels detected, for the associated commodities.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for sulfosulfuron in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of sulfosulfuron.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC)or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and Screening Concentrations in Groundwater (SCI-GROW), which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a Tier 1 model) before using PRZM/EXAMS (a Tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to sulfosulfuron they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models the EECs of sulfosulfuron for acute exposures are estimated to be 0.66 parts per billion (ppb) for surface water and 1.9 ppb for ground water. The EECs for chronic exposures are estimated to be 1.73 ppb for surface water and 0.295 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

There are no residential uses of sulfosulfuron that are expected to result in residential handler exposure. However, the commercial use of sulfosulfuron on residential and recreational turf may lead to post application exposure in individuals. EPA has performed a cancer risk assessment for adults and children based on post application residential exposure.

Cancer risk for residential adults was calculated based on high and low activity. For high-exposure activity, a Transfer Coefficient (Tc) of 1,000 cm^2/hr (1 hr) was used and for low-exposure activity, a Tc of 500 cm^2/hr (1 hr) was used.

EPA built several conservative assumptions into the assessment of residential cancer risk. These include using 50 years of exposure and an estimated 20% (default) of dislodgeable foliar residues (DFR) from the turf, which is derived from the maximum application rate. An average of 14 days of DFRs was used for this cancer assessment; this would be considered a 10% decrease each day (from dilution by rain, and mowing of the grass) of the 20% residue for at least 14 days, and then taking the mean value of this 14–day exposure.

The Lifetime Average Daily Dose (LADD) = 6.0×10^{-5} mg/kg/day for a Tc =1,000 cm^2/hr (high-exposure activity for 1 hour) and for a Tc = 500 cm^2/hr (low-exposure activity for 1 hour) is equal to 3.0×10^{-5} mg/kg/day.

The estimated cancer risk for adults on day zero, based on high-exposure activity for 1 hour (Tc =1,000 cm^2/hr) is estimated to be 1.2×10^{-7}. For low-exposure activity (Tc = 500 cm^2/hr), the risk is estimated to be 6.0×10^{-8}.

Although it is likely that toddlers would also be exposed to sulfosulfuron from incidental ingestion of grass, soil, or hand-to-mouth transfer, no relevant oral toxicological endpoints have been identified by EPA. Therefore, to address the short-term residential risk to children from incidental exposure, for the purposes of this assessment only, EPA used the NOAEL of 24mg/kg/day from the combined chronic toxicity/ carcinogenicity study in rats. This NOAEL is considered conservative and health protective for this assessment because it represents the lowest NOAEL in the most sensitive species (the basis for the cRfD).

Postapplication inhalation exposure is considered to be negligible. However, non-dietary, incidental ingestion of residues from treated turfgrass and ingestion of contaminated soil are possible.

As a conservative measure, the exposure and risk estimates for four residential exposure scenarios are assessed for the day of application (day zero) because it is assumed that toddlers could contact the lawn immediately after application. Chronic exposure is not expected (i.e., these activities are

not expected to occur continuously for more than 30 days).

Children's estimated risk from oral hand-to-mouth activities on treated lawns is estimated to result in a short-term MOE of 1,700. Children's estimated risk from oral object-to-mouth (turfgrass) from treated lawns is estimated to result in a short-term MOE of 6,800. Children's estimated risk from incidental ingestion of soil from treated lawns is estimated to result in a short-term MOE of 510,000. Since short-term MOEs are above 100, they do not exceed EPA's level of concern. Chronic or long-term exposure is not expected.

While considered unlikely, if a toddler were to experience exposure from all of these sources at the same time, the combined incidental oral exposure would be 0.018 mg/kg/day. This combined exposure results in an estimated MOE of 1,400, which does not exceed EPA's level of concern.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to sulfosulfuron and any other substances and sulfosulfuron does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that sulfosulfuron has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative/*.

C. Safety Factor for Infants and Children

1. *In general*. Section 408 of the FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Developmental reproductive toxicity studies*. The results of the 2–generation reproduction and developmental toxicity studies indicated that sulfosulfuron is not a developmental or reproductive toxicant. The acute and subchronic neurotoxicity studies showed that sulfosulfuron is not neurotoxic. Sulfosulfuron is rapidly excreted, primarily unmetabolized. Excretion at low dose occurred primarily in the urine, whereas at high dose, a large percentage of the administered dose was excreted in the feces. Sulfosulfuron was not retained in tissues to any significant extent.

3. *Conclusion*. There is a complete toxicity data base for sulfosulfuron and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA has determined that the 10X safety factor to protect infants and children should be removed. The FQPA factor is removed because the developmental and reproductive toxicity data did not indicate increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure. Any detectable residues in food or drinking water would be expected at low levels since application rates are low. There are currently no registered homeowner uses for sulfosulfuron. Finally, concern for post-application exposure to infants and children from commercial application of the pesticide is tempered by the low acute oral, dermal, and inhalation toxicity of this pesticide.

D. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water (e.g., allowable chronic water exposure (mg/kg/day)) = cPAD - (average food + chronic non-dietary, non-occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by EPA's Office of Water are used to calculate DWLOCs: 2 liter (L)/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to sulfosulfuron in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of sulfosulfuron on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. As discussed earlier, sulfosulfuron has low acute oral, dermal, and inhalation toxicity. It is non-irritating to skin, slightly irritating to eyes and is not a skin sensitizer. Endpoints for risk assessment through exposure via the acute dietary, dermal, inhalation and incidental oral routes were not identified; therefore, acute, short- and intermediate-term dermal and inhalation risk were not concerns.

2. *Chronic risk*. Chronic and cancer aggregate risk assessments were performed for adults, while short-term and chronic aggregate risk assessments were performed for children. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to sulfosulfuron from food will utilize <1% of the cPAD for all population subgroups, including infants and children, young children, young adults, females of childbearing age and for the overall U.S. population. Based the use

pattern, chronic residential exposure to residues of sulfosulfuron is not expected. In addition, despite the potential for chronic dietary exposure to sulfosulfuron in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of sulfosulfuron in surface water and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO SULFOSULFURON

Population	cPAD (mg/kg/day)	Chronic Food Exposure (mg/kg/day)	Max Chronic Water Exposure[1] (mg/kg/day)	Ground Water EEC[2] (ppb)	Surface Water EEC[2] (ppb)	Chronic DWLOC[3] (ppb)
General U.S. population	NA	0.000206	0.24	NA	NA	8,400
NA	0.24	NA	NA	0.295	1.73	NA
All infants (<1 year old)	NA	0.000286	0.24	NA	NA	2,400
Children (1-2 years old)	NA	0.000900	0.24	NA	NA	2,400
Children (3-5 years old)	NA	0.000636	0.24	NA	NA	2,400
Children (6-12 years old)	NA	0.000387	0.24	NA	NA	2,400
Youth (13-19 years old)	NA	0.000182	0.24	NA	NA	7,200
Adults (20-49 years old)	NA	0.000124	0.24	NA	NA	8,400
Adults (50 + years old)	NA	0.000114	0.24	NA	NA	8,400
Females (13-49 years old)	NA	0.000123	0.24	NA	NA	7,200

[1] Maximum chronic water exposure (mg/kg/day) = cPAD (mg/kg/day) - chronic food exposure from DEEM (mg/kg/day); no res. exp.
[2] FIRST and SCI-GROW modeling EECs (Tier 1)
[3] DWLOC(μg/L) = (allowable water exposure (mg/kg/day) x body weight (kg) x 1,000 μg/mg) ÷ (water consumption (liters))

3. *Short-term risk*. The short-term aggregate risk takes into account the exposure from potential residential sources in addition to average dietary residues from food and drinking water. The short-term aggregate risk assessment was performed for children only, since an endpoint for dermal risk assessment was not identified. The resulting short-term DWLOC is 2,200 ppb and is not of concern because it exceeds the EECs for sulfosulfuron. Short-term aggregate risks are presented in the following Table 3:

TABLE 3.—SHORT-TERM AGGREGATE RISK AND DWLOC CALCULATIONS

Population	Short-Term Scenario									
	NOAEL mg/kg/day	Target MOE	Max Exposure mg/kg/day	Average Food Exposure mg/kg/day	Residential Exposure mg/kg/day	Aggregate MOE (food and residential)	Allowable Water Exposure mg/kg/day	Ground Water EEC (ppb)	Surface Water EEC (ppb)	Short-Term DWLOC (ppb)
Child	24	100	0.24	0.00090	0.018	1,270	0.221100	0.295	1.73	2,200

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). Although residential exposure could occur with the use of sulfosulfuron, no toxicological effects have been identified for intermediate-term toxicity. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

5. *Aggregate cancer risk for U.S. population*. The cancer aggregate risk assessment considered exposure from food, water and residential sources. EPA performs cancer assessments for only the general U.S. population. The cancer dietary analyses assumed tolerance level residues, 100% crop treated, and DEEM default processing factors. The Lifeline™ lifetime cancer risk for the U.S. population is 2.0×10^{-7} and is therefore less than EPA's level of concern. Residential cancer risk was estimated for adults only. The aggregate cancer risk DWLOC of 25 ppb exceeds EECs for sulfosulfuron and does not result in a concern.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to sulfosulfuron residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (example—gas chromatography) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address:*residuemethods@epa.gov*.

B. International Residue Limits

There is neither a Codex proposal, nor Canadian or Mexican maximum residue limits, for residues of sulfosulfuron in or on grasses. Therefore, harmonization is not an issue for this tolerance action.

C. Conditions

No conditions are placed on these time-limited tolerances.

VI. Conclusion

Therefore, tolerances are established for combined residues of sulfosulfuron, 1-(4,6-dimethoxypyrimidin-2yl)-3-[(2-ethanesulfonyl-imidazo[1,2-a]pyridine-3-yl)sulfonyl]urea and metabolites converted to 2-(ethylsulfonyl)-imidazo[1,2-a]pyridine (calculated as sulfosulfuron), in or on Bermudagrass, forage at 11 ppm; Bermudagrass, hay at 40 ppm; Bahiagrass, forage at 11 ppm; Bahiagrass, hay at 40 ppm; milk at 0.02 ppm; fat (of cattle, goat, horse and sheep) at 0.04 ppm; meat (of cattle, goat, horse and sheep) at 0.02 ppm; and meat byproducts (cattle, goat, horse and sheep) at 0.50 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of the FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2005–0270 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 17, 2006.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900L), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Suite 350, 1099 14th St., NW., Washington, DC 20005. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 564–6255.

2.*Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A.1., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in **ADDRESSES**. Mail your copies, identified by the docket ID number OPP–2005–0270, to: Public Information and Records Integrity Branch, Information Technology and Resource Management Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in **ADDRESSES**. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Statutory and Executive Order Reviews

This final rule establishes time-limited tolerances under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under section 408 of the FFDCA, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the

requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IX. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 7, 2005.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—AMENDED

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.552 is amended by adding text to paragraph (b) to read as follows:

§ 180.552 Sulfosulfuron; pesticide tolerances.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for the combined residues of the herbicide sulfosulfuron, 1-(4,6-dimethoxypyrimidin-2-yl)-3-[(2-ethanesulfonyl-imidazo[1,2-a]pyridine-3-yl)sulfonyl]urea and metabolites converted to 2-(ethylsulfonyl)-imidazo[1,2-a]pyridine (calculated as sulfosulfuron) in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances are specified in the following table. The tolerances will expire on the dates specified in the table.

Commodity	Parts per million	Expiration/ revocation date
Bahiagrass, forage	11	12/31/09
Bahiagrass, hay	40	12/31/09
Bermudagrass, forage	11	12/31/09
Bermudagrass, hay	40	12/31/09
Cattle, fat	0.04	12/31/09
Cattle, meat	0.02	12/31/09
Cattle, meat by-products	0.50	12/31/09
Goat, fat	0.04	12/31/09
Goat, meat	0.02	12/31/09
Goat, meat by-products	0.50	12/31/09
Horse, fat	0.04	12/31/09
Horse, meat	0.02	12/31/09
Horse, meat by-products	0.50	12/31/09
Milk	0.02	12/31/09
Sheep, fat	0.04	12/31/09
Sheep, meat	0.02	12/31/09
Sheep, meat by-products	0.50	12/31/09

* * * * *

[FR Doc. 05–22699 Filed 11–15–05; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Addition of White Abalone and the United States Distinct Vertebrate Population Segment of the Smalltooth Sawfish to the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the Fish and Wildlife Service (Service), are adding two marine taxa to the List of Endangered and Threatened Wildlife (List) in accordance with the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act). These two taxa are the white abalone (*Haliotis sorenseni*) and the United States Distinct Vertebrate Population Segment (DPS) of the smalltooth sawfish (*Pristis pectinata*). These amendments are based on previously published determinations by the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Department of Commerce, which has jurisdiction for these species.

DATES: *Effective date:* This rule is effective November 16, 2005.

Applicability dates: The white abalone listing is applicable as of June 28, 2001. The United States DPS of the

smalltooth sawfish listing is applicable as of May 1, 2003.

FOR FURTHER INFORMATION CONTACT: Marjorie Nelson, Branch of Listing, Endangered Species Program, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Mail Stop 420, Arlington, Virginia 22203 (703/358–2105).

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Act and the Reorganization Plan No. 4 of 1970, NMFS has jurisdiction over these taxa. Under section 4(a)(2) of the Act, NMFS must decide whether a species under its jurisdiction should be classified as endangered or threatened. The Service is responsible for the actual amendment of the List in 50 CFR 17.11(h).

On May 5, 2000, NMFS published a proposed rule (65 FR 26167) to list the white abalone as endangered. During the public comment period for that proposed rule, NMFS received nine written comments. On May 29, 2001, NMFS published a final rule to list the white abalone as endangered (66 FR 29046). The listing was effective as of June 28, 2001. In that final rule, NMFS addressed all public comments received in response to the proposed rule.

On April 16, 2001, NMFS published a proposed rule to list the smalltooth sawfish as endangered on (66 FR 19414). During the 60-day public comment period, NMFS received 12 written comments on the proposed rule. On April 1, 2003, NMFS published a final rule to list the DPS of smalltooth sawfish in the United States as an endangered species (68 FR 15674). The listing was effective as of May 1, 2003. In that final rule, NMFS addressed all comments received in response to the proposed rule.

Because NMFS provided a public comment period on the proposed rules for these two taxa, and because this action of the Service to amend the List in accordance with the determination by NMFS is nondiscretionary, the Service has omitted the notice and public comment procedures of 5 U.S.C. 553(b) for this action.

For more information concerning these two listing determinations, please consult the respective rules published in the **Federal Register**.

Required Determinations

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Export, Import, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

■ Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

■ 2. Amend § 17.11 by adding the following, in alphabetical order under FISHES and CLAMS, respectively, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
FISHES							
*	*	*	*	*	*	*	
Sawfish, smalltooth ..	*Pristis pectinata*	North Atlantic (Mediterranean, U.S. Atlantic and Gulf of Mexico) and the Southwest Atlantic.	U.S.A. (Gulf of Mexico from Texas to Florida and along the east coast from Florida to Cape Hatteras).	E	748	NA	NA
*	*	*	*	*	*	*	
CLAMS							
*	*	*	*	*	*	*	
Abalone, white	*Haliotis sorenseni* ...	North America (West coast from Point Conception, CA, U.S.A., to Punta Abreojos, Baja California, Mexico).	NA	T	748	NA	NA
*	*	*	*	*	*	*	

Dated: September 15, 2005.

Marshall P. Jones, Jr.,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 05–22624 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 70, No. 220
Wednesday, November 16, 2005

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AK94

Prevailing Rate Systems; North American Industry Classification System Based Federal Wage System Wage Surveys

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing a proposed rule that would replace the Standard Industrial Classification codes currently used in Federal Wage System (FWS) regulations with the more recent North American Industry Classification System (NAICS) codes, published by the Office of Management and Budget. The purpose of this change is to update the FWS wage survey industry regulations by adopting the new NAICS system.

DATES: We must receive comments on or before December 16, 2005.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Deputy Associate Director for Pay and Performance Policy, Strategic Human Resources Policy Division, Office of Personnel Management, Room 7H31, 1900 E Street, NW., Washington, DC 20415–8200; e-mail *pay-performance-policy@opm.gov;* or FAX: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, (202) 606–2838; e-mail *pay-performance-policy@opm.gov;* or FAX: (202) 606–4264.

SUPPLEMENTARY INFORMATION: The goal of the Federal Wage System (FWS) is to pay blue-collar Federal employees according to local prevailing rates. To determine local prevailing rates, the Department of Defense, the lead agency for all regular FWS wage surveys, collects wage data for a prescribed list of industries in each FWS wage area annually. The Office of Personnel Management (OPM) is responsible for prescribing the required industries to be surveyed and the conditions under which required industrial coverage may be augmented for particular surveys. Under the current regulations, the industries surveyed are defined under the Standard Industrial Classification (SIC) system. The Office of Management and Budget developed the North American Industry Classification System (NAICS) to replace the SIC system. NAICS was developed jointly by the United States, Canada, and Mexico to provide comparability in statistics about business activity across North America.

NAICS groups establishments into industries based on the activities in which they are primarily engaged. It is a comprehensive system covering the entire field of economic activities. NAICS groups the economy into 20 broad sectors and uses a 6-digit coding system to identify particular industries. The first two digits of the code designate the sector, the third digit designates the subsector, the fourth digit designates the industry group, the fifth digit designates the NAICS industry, and the sixth digit designates the national industry.

Because NAICS is now the official industry classification system used in the United States, the Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, established a Wage Survey Methodology Work Group (Work Group) to study the desirability and feasibility of replacing the SIC codes currently used in FWS regulations with NAICS codes and the effect this change would have on industry coverage for FWS wage surveys. The following sections of title 5, Code of Federal Regulations, list the industries included in the FWS wage surveys by SIC codes:

Section 532.213 Industries included in regular appropriated fund wage surveys.
Section 532.221 Industries included in regular nonappropriated fund surveys.
Section 532.267 Special wage schedules for aircraft, electronic, and optical instrument overhaul and repair positions in the Puerto Rico wage area.
Section 532.279 Special wage schedules for printing positions.
Section 532.285 Special wage schedules for supervisors of negotiated rate Bureau of Reclamation employees.
Section 532.313 Private sector industries.

The Work Group recommended to FPRAC that OPM replace all SIC codes in the FWS regulations with the most closely corresponding NAICS codes. In effect, this would update the FWS wage survey industry regulations by adopting the NAICS system, while making as few changes as possible in the types of industrial establishments that are already included in FWS wage surveys under the SIC system. FPRAC agreed with the Work Group's recommendation, and OPM concurs with FPRAC's recommendation.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

E.O. 12866, Regulatory Review

The Office of Management and Budget has reviewed this proposed rule in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Linda M. Springer,

Director.

Accordingly, the Office of Personnel Management proposes to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Subpart B—Prevailing Rate Determinations

2. In § 532.213, revise paragraph (a) to read as follows:

§ 532.213 Industries included in regular appropriated fund wage surveys.

(a) The lead agency must include the industries in the following North

American Industry Classification System (NAICS) codes in all regular appropriated fund wage surveys:

Manufacturing	NAICS 311 through 339 (except 323).	All manufacturing classes except printing and related support activities (NAICS 323).
Transportation, Communications, Electric, Gas, and Sanitary Services.	NAICS 221	Utilities.
	NAICS 481	Air transportation.
	NAICS 482	Rail transportation.
	NAICS 484	Truck transportation.
	NAICS 485 (except 4853)	Transit and ground passenger transportation except taxi and limousine service (NAICS 4853).
	NAICS 487 (except 4872)	Scenic and sightseeing transportation except scenic and sightseeing transportation, water (NAICS 4872).
	NAICS 488 (except 4883 and 4884).	Support activities for transportation except support activities for water transportation (NAICS 4853) and support activities for road transportation (NAICS 4854).
	NAICS 492	Couriers and messengers.
	NAICS 493	Warehousing and storage.
	NAICS 515	Broadcasting (except Internet).
	NAICS 517	Telecommunications.
	NAICS 5621	Waste collection.
	NAICS 5622	Waste Treatment and Disposal.
Wholesale Trade	NAICS 423	Merchant wholesalers—durable goods.
	NAICS 424	Merchant wholesalers—nondurable goods.

* * * * *

3. In § 532.221, revise paragraph (a) to read as follows:

§ 532.221 Industries included in regular nonappropriated fund surveys.

(a) The lead agency must include the following North American Industry Classification System (NAICS) codes in all regular nonappropriated fund wage surveys:

NAICS	Title
Wholesale Trade:	
42312	Motor vehicle supplies and new parts.
4232	Furniture and home furnishing.
42362	Electrical and electronic appliance, television, and radio set.
42369	Other electronic parts and equipment.
42371	Hardware.
42391	Sporting and recreational goods and supplies.
42399	Other miscellaneous durable goods.
4241	Paper and paper product.
42421	Drugs and druggists' sundries.
4243	Apparel, piece goods, and notions.
42445	Confectionery.
4247	Petroleum and petroleum products.
4249	Miscellaneous nondurable goods.
Retail:	
44132	Tire dealers.
44311	Appliance, television, and other electronic stores.
44411	Home centers.
44611	Pharmacies and drug stores.
4471	Gasoline stations.
44814	Family clothing stores.
4521	Department stores.
45299	All other general merchandise stores.
45321	Office supplies and stationery stores.
4542	Vending machine operators.
Arts, Entertainment, and Recreation:	
71391	Golf courses and country clubs.
71395	Bowling centers.
Accommodations and Food Services:	
72111	Hotels (except casino hotels) and motels.
7221	Full-service restaurants.
7222	Limited-service eating places.
7224	Drinking places (alcoholic beverages).

* * * * *

4. In § 532.267, revise paragraph (c)(1) to read as follows:

§ 532.267 Special wage schedules for aircraft, electronic, and optical instrument overhaul and repair positions in the Puerto Rico wage area.

* * * * *

(c) * * *

(1) Surveys must, at a minimum, include the air transportation and electronics industries in the following

North American Industry Classification System (NAICS) codes:

NAICS	Title
3341	Computer and peripheral equipment manufacturing.
33422	Radio and television broadcasting and wireless communications equipment manufacturing.
33429	Other communications equipment manufacturing.
3343	Audio and video equipment manufacturing.
334412	Bare printed circuit board manufacturing.
334413	Semiconductor and related device manufacturing.
334418	Printed circuit assembly (electronic assembly) manufacturing.
334419	Other electronic component manufacturing.
334511	Search, detection, navigation, guidance, aeronautical, and nautical system and instrument manufacturing.
334613	Magnetic and optical recording media manufacturing.
42342	Office equipment merchant wholesalers.
42343	Computer and computer peripheral equipment and software merchant wholesalers.
4811	Scheduled air transportation.
4812	Nonscheduled air transportation.
4879	Scenic and sightseeing transportation, other.
4881	Support activities for air transportation.
4921	Couriers.
56172	Janitorial services.
62191	Ambulance services.
81142	Reupholstery and furniture repair.

* * * * *

5. In § 532.279, revise paragraphs (c), introductory text, and (c)(1) to read as follows:

§ 532.279 Special wage schedules for printing positions.

* * * * *

(c) The lead agency must establish survey specifications for the printing survey as follows:

(1) The lead agency must include North American Industry Classification System (NAICS) codes 323110 and 323114 in the printing survey and may add other NAICS codes in subsector 323 to the survey based on its survey experience.

* * * * *

6. In § 532.285, revise paragraph (c)(1) to read as follows:

§ 532.285 Special wage schedules for supervisors of negotiated rate Bureau of Reclamation employees.

* * * * *

(c) * * *

(1) Based on Bureau of Reclamation activities and types of supervisory positions in the special wage area, the Bureau of Reclamation must survey private industry companies, with no minimum employment size requirement for establishments, in the following North American Industry Classification System code subsectors:

Subsector	Industry
211	Oil and gas extraction.
212	Mining (except oil and gas).
213	Support activities for mining.
221	Utilities.
333	Machinery manufacturing.
334	Computer and electronic product manufacturing.
335	Electrical equipment, appliance, and component manufacturing.
484	Truck transportation.
492	Couriers and messengers.
493	Warehousing and storage.
515	Broadcasting (except Internet).
517	Telecommunications.
562	Waste management and remediation services.
811	Repair and maintenance.

* * * * *

7. Revise § 532.313 to read as follows:

§ 532.313 Private sector industries.

(a) For appropriated fund surveys, the lead agency must use the private sector industries in the following North American Industry Classification System (NAICS) codes when it makes its wage schedule determinations for each specialized Federal industry:

Aircraft	
NAICS 332912	Fluid power valve and hose fitting manufacturing.
NAICS 336411	Aircraft manufacturing.
NAICS 336412	Aircraft engine and engine parts manufacturing.
NAICS 336413	Other aircraft part and auxiliary equipment manufacturing.
NAICS 336415	Guided missile and space vehicle propulsion unit and propulsion unit parts manufacturing.
NAICS 336419	Other guided missile and space vehicle parts and auxiliary equipment manufacturing.

NAICS 4811	Scheduled air transportation.
NAICS 4812	Nonscheduled air transportation.
NAICS 4879	Scenic and sightseeing transportation, other.
NAICS 4881	Support activities for air transportation.
NAICS 4921	Couriers.
NAICS 54171	Research and development in the physical, engineering, and life sciences.
NAICS 56172	Janitorial services.
NAICS 62191	Ambulance services.
NAICS 81142	Reupholstery and furniture repair.

Ammunition

NAICS 32592	Explosives manufacturing.
NAICS 332992	Small arms ammunition manufacturing.
NAICS 332993	Ammunition (except small arms) manufacturing.

Artillery and combat vehicles

NAICS 2211	Electric power generation, transmission, and distribution.
NAICS 2212	Natural gas distribution.
NAICS 32732	Ready-mix concrete manufacturing.
NAICS 332212	Hand and edge tool manufacturing.
NAICS 332323	Ornamental and architectural metal work manufacturing.
NAICS 332439	Other metal container manufacturing.
NAICS 332995	Other ordnance and accessories manufacturing.
NAICS 332999	All other miscellaneous fabricated metal product manufacturing.
NAICS 33311	Agricultural implement manufacturing.
NAICS 33312	Construction machinery manufacturing.
NAICS 333611	Turbine and turbine generator set unit manufacturing.
NAICS 333618	Other engine equipment manufacturing.
NAICS 333922	Conveyor and conveying equipment manufacturing.
NAICS 333923	Overhead traveling crane, hoist, and monorail system manufacturing.
NAICS 333924	Industrial truck, tractor, trailer, and stacker machinery manufacturing.
NAICS 3361	Motor vehicle manufacturing.
NAICS 336211	Motor vehicle body manufacturing.
NAICS 336212	Truck trailer manufacturing.
NAICS 336312	Gasoline engine and engine parts manufacturing.
NAICS 336322	Other motor vehicle electrical and electronic equipment manufacturing.
NAICS 33633	Motor vehicle steering and suspension components (except spring) manufacturing.
NAICS 33634	Motor vehicle brake system manufacturing.
NAICS 33635	Motor vehicle transmission and power train parts manufacturing.
NAICS 336399	All other motor vehicle parts manufacturing.
NAICS 33651	Railroad rolling stock manufacturing.
NAICS 336992	Military armored vehicle, tank, and tank component manufacturing.
NAICS 4231	Motor vehicle and motor vehicle parts and supplies merchant wholesalers.
NAICS 42381	Construction and mining (except oil well) machinery and equipment merchant wholesalers.
NAICS 42382	Farm and garden machinery and equipment merchant wholesalers.
NAICS 4413	Automotive parts, accessories, and tire stores.
NAICS 44421	Outdoor power equipment stores.
NAICS 484	Truck transportation.
NAICS 4862	Pipeline transportation of natural gas.
NAICS 492	Couriers and messengers.
NAICS 5171	Wired telecommunications carriers.
NAICS 5172	Wireless telecommunications carriers (except satellite).
NAICS 5173	Telecommunications resellers.
NAICS 5621	Waste collection.
NAICS 81299	All other personal services.

Communications

NAICS 33422	Radio and television broadcasting and wireless communications equipment manufacturing.
NAICS 33429	Other communications equipment manufacturing.
NAICS 334511	Search, detection, navigation, guidance, aeronautical and nautical system and instrument manufacturing.
NAICS 334514	Totalizing fluid meter and counting device manufacturing.
NAICS 334515	Instrument manufacturing for measuring and testing electricity and electrical signals.
NAICS 335311	Power, distribution, and specialty transformer manufacturing.
NAICS 48531	Taxi service.
NAICS 5151	Radio and television broadcasting.
NAICS 5152	Cable and other subscription carriers.
NAICS 5171	Wired telecommunications carriers.
NAICS 5172	Wireless telecommunications carriers (except satellite).
NAICS 5173	Telecommunications resellers.
NAICS 5174	Satellite telecommunications.
NAICS 5179	Other telecommunications.

Electronics	
NAICS 3341	Computer and peripheral equipment manufacturing.
NAICS 33422	Radio and television broadcasting and wireless communications equipment manufacturing.
NAICS 33429	Other communications equipment manufacturing.
NAICS 33431	Audio and video equipment manufacturing.
NAICS 334412	Bare printed circuit board manufacturing.
NAICS 334413	Semiconductor and related device manufacturing.
NAICS 334414	Electronic capacitor manufacturing.
NAICS 334415	Electronic resistor manufacturing.
NAICS 334416	Electronic coil, transformer, and other inductor manufacturing.
NAICS 334417	Electronic connector manufacturing.
NAICS 334418	Printed circuit assembly (electronic assembly) manufacturing.
NAICS 334419	Other electronic component manufacturing.
NAICS 334511	Search, detection, navigation, guidance, aeronautical and nautical system and instrument manufacturing.
NAICS 334613	Magnetic and optical recording media manufacturing.
NAICS 42342	Office equipment merchant wholesalers.
NAICS 42343	Computer and computer peripheral equipment and software merchant wholesalers.
Guided missiles	
NAICS 332912	Fluid power valve and hose fitting manufacturing.
NAICS 3341	Computer and peripheral equipment manufacturing.
NAICS 33422	Radio and television broadcasting and wireless communications equipment manufacturing.
NAICS 33429	Other communications equipment manufacturing.
NAICS 334418	Printed circuit assembly (electronic assembly) manufacturing.
NAICS 334511	Search, detection, navigation, guidance, aeronautical and nautical system and instrument manufacturing.
NAICS 334613	Magnetic and optical recording media manufacturing.
NAICS 3364	Aerospace product and parts manufacturing.
NAICS 54131	Architectural services.
NAICS 54133	Engineering services.
NAICS 54136	Geophysical surveying and mapping services.
NAICS 54137	Surveying and mapping (except geophysical) services.
NAICS 54171	Research and development in the physical, engineering, and life sciences.
Heavy duty equipment	
NAICS 332439	Other metal container manufacturing.
NAICS 332999	All other miscellaneous fabricated metal product manufacturing.
NAICS 33312	Construction machinery manufacturing.
NAICS 333923	Overhead traveling crane, hoist, and monorail system manufacturing.
NAICS 333924	Industrial truck, tractor, trailer, and stacker machinery manufacturing.
NAICS 33651	Railroad rolling stock manufacturing.
NAICS 42381	Construction and mining (except oil well) machinery and equipment wholesalers.
Shipbuilding	
NAICS 336611	Ship building and repairing.
NAICS 48839	Other support activities for water transportation.
Sighting and fire control equipment	
NAICS 333314	Optical instrument and lens manufacturing.
NAICS 3341	Computer and peripheral equipment manufacturing.
NAICS 33422	Radio and television broadcasting and wireless communications equipment manufacturing.
NAICS 33429	Other communications equipment manufacturing.
NAICS 334418	Printed circuit assembly (electronic assembly) manufacturing.
NAICS 334511	Search, detection, navigation, guidance, aeronautical and nautical system and instrument manufacturing.
NAICS 334613	Magnetic and optical recording media manufacturing.
Small arms	
NAICS 332994	Small arms manufacturing.

(b) The lead agency must limit special job coverage for industries in NAICS codes 2211, 2212, 32732, 484, 4862, 5621, 492, 5171, 5172, and 5173 to automotive mechanic, diesel engine mechanic, and heavy mobile equipment mechanic.

(c) For nonappropriated fund wage surveys, the lead agency must use NAICS codes 71111, 7221, 7222, 72231, 72232, and 7224 (eating and drinking places) when it determines a wage schedule for a specialized industry.

[FR Doc. 05–22742 Filed 11–15–05; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22898; Directorate Identifier 2005–NE–10–AD]

RIN 2120–AA64

Airworthiness Directives; McCauley Propeller Systems Models 3A32C406/82NDB–X and D3A32C409/82NDB–X Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for McCauley Propeller Systems models 3A32C406/82NDB–X and D3A32C409/82NDB–X propellers, installed on Teledyne Continental Motors (TCM) IO–520, TSIO–520, or IO–550 reciprocating engines. These propellers are herein referred to as C406 and C409 propellers, respectively. This proposed AD would require adding an operational revolutions per minute (rpm) restriction on the C406 and C409 propellers, and installing an rpm restriction placard in the cockpit. This proposed AD would also add a 10,000-hour total time-in-service (TIS) life limit for these propellers. This proposed AD would also remove from service any propeller that has 10,000 hours or more total TIS, or that has an unknown total TIS. Also, this proposed AD would require initial and repetitive propeller blade inspections for damage, and repair if necessary. This proposed AD results from testing by the manufacturer that identified stress conditions that affect the fatigue life and damage tolerance of C406 and C409 propellers, when installed on TCM IO–520, TSIO–520, or IO–550 reciprocating engines. We are proposing this AD to prevent blade or hub failure that could result in separation of a propeller blade and loss of control of the airplane.

DATES: We must receive any comments on this proposed AD by January 17, 2006.

ADDRESSES: Use one of the following addresses to comment on this proposed AD.

- DOT Docket web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact McCauley Propeller Systems, P.O. Box 7704, Wichita, KS 67277–7704; telephone (800) 621–7767, for the service information identified in this AD.

You may examine the comments on this proposed AD in the AD docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Timothy Smyth, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone: (847) 294–7132; fax: (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–22898; Directorate Identifier 2005–NE–10–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the DMS web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Examining the AD Docket

You may examine the docket that contains the proposal, any comments received and, any final disposition in person at the DMS Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

McCauley Propeller Systems recently conducted tests to measure vibratory stress on C406 and C409 propellers. The tests identified a high stress condition that reduces the fatigue life and damage tolerance of C406 and C409 propellers when installed on TCM IO–520, TSIO–520, or IO–550 reciprocating engines. This condition, if not corrected, could result in blade or hub failure that could result in separation of a propeller blade and loss of control of the airplane.

Relevant Service Information

We reviewed and approved the technical contents of McCauley Propeller Systems Alert Service Bulletin (ASB) No. ASB248, dated January 17, 2005, that does the following:

- Adds an rpm restriction that states continuous propeller operation between 2,350 rpm and 2,450 rpm at 24 inches Hg and higher manifold pressure is prohibited.
- Installs an rpm restriction placard in the cockpit.
- Adds a 10,000-hour total TIS life limit for C406 and C409 propellers.
- Removes from service any propeller that has 10,000 hours or more total TIS, or that has an unknown total TIS.
- Requires initial and repetitive propeller blade inspections for damage, and repair if necessary.

FAA's Determination and Requirements of the Proposed AD

We evaluated all pertinent information and identified an unsafe condition that is likely to exist or

develop on other C406 and C409 propellers of this same type design. We are proposing this AD, which would require:

- Within 10 hours TIS after the effective date of the proposed AD, installing an rpm restriction placard on the pilot's console in front of the pilot, that states that continuous propeller operation between 2,350 and 2,450 rpm at 24 inches Hg and higher manifold pressure is prohibited.
- Adding a 10,000-hour total TIS propeller life limit.
- Within 50 hours TIS after the effective date of the proposed AD, removing from service any propeller that has 10,000 hours or more total TIS, or that has an unknown total TIS.
- Initially inspecting propeller blades for damage within 100 hours TIS after the effective date of the proposed AD, and repairing if necessary.
- Thereafter, repetitively inspecting propeller blades for damage every 100 hours TIS or next annual inspection, whichever occurs first.

The proposed AD would require you to use the service information described previously to perform these actions.

Costs of Compliance

About 2,350 C406 and C409 propellers installed on airplanes of U.S. registry would be affected by this proposed AD. We also estimate it would take about 3 work hours per propeller to perform the proposed inspections and repairs, and each propeller would have three inspections per year. We also estimate it would take about 0.5 work hour to install the proposed cockpit placard, and about 950 airplanes would require the placard. The average labor rate is $65 per work hour. A replacement propeller blade would cost about $10,500. We estimate 500 propellers in the fleet (or about 21%) would require parts replacement. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $2,585,500.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this proposal and placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive:

McCauley Propeller Systems: Docket No. FAA–2005–22898; Directorate Identifier 2005–NE–10–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by January 17, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to McCauley Propeller Systems models 3A32C406/82NDB–X and D3A32C409/82NDB–X propellers, herein referred to as C406 and C409 propellers, respectively. These propellers are installed on, but not limited to, the airplanes in the following Table 1:

TABLE 1.—AIRPLANES THAT PROPELLERS ARE INSTALLED ON, BUT NOT LIMITED TO:

Airplane models:	With engine model:
Beech:	
A35, B35, C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, V35B, 35–33, 35–33A, 35–C33, 35-C33A, E33, E33A, E33C, F33, F33A, F33C, 36, A36, A45, and D45.	Teledyne Continental Motors (TCM) IO–520 series and IO–550 series reciprocating engines.
Beech:	
A36TC, B36TC, S35, V35A, V35B.	TCM TSIO–520 series reciprocating engines.
Navion:	
A (L–17B, C), B, D, E, F, G, and H.	TCM IO–550 and TSIO–520 series reciprocating engines.

Unsafe Condition

(d) This AD results from testing by the manufacturer, that identified stress conditions that affect the fatigue life and damage tolerance of C406 and C409 propellers when installed on TCM IO–520, TSIO–520, or IO–550 reciprocating engines. We are issuing this AD to prevent blade or hub failure that could result in separation of a propeller blade and loss of control of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified unless the actions have already been done.

Installation of Cockpit Placard for RPM Restriction

(f) Within 10 hours time-in-service (TIS) after the effective date of this AD, install a placard on the pilot's console in front of the pilot, that states, in ¼ inch-high or higher characters, ''Continuous propeller operation between 2,350 rpm and 2,450 rpm at 24 inches Hg and higher manifold pressure is prohibited''.

Propellers With Unknown Total Hours TIS, or 10,000 or More Hours Total TIS on the Effective Date of This AD

(g) For propellers that the total TIS is unknown, or that have 10,000 or more hours total TIS on the effective date of this AD, remove the propeller from service within 50 hours TIS after the effective date of this AD.

Propellers With Fewer Than 10,000 Hours Total TIS on the Effective Date of This AD

(h) For propellers with fewer than 10,000 total hours TIS on the effective date of this AD, do the following:

(1) Perform an inspection of the propeller blades and repair if necessary, within 100 hours after the effective date of this AD, using paragraphs 2.B. through 2.F. of Accomplishment Instructions of McCauley ASB No. ASB248, dated January 17, 2005.

(2) At the next propeller overhaul or next major propeller disassembly, life-limit-stamp the letter ''L'' on the propeller hub and blades, using paragraph 3 of Accomplishment Instructions of McCauley Propeller Systems Alert Service Bulletin (ASB) No. ASB248, dated January 17, 2005.

(3) Thereafter, within every 100 hours TIS or at next annual inspection, whichever occurs first, inspect, and repair if necessary, the propeller blades using paragraphs 2.B. through 2.F. of Accomplishment Instructions of McCauley ASB No. ASB248, dated January 17, 2005.

(4) Remove the propeller from service at or before reaching the life limit of 10,000 hours total TIS.

Alternative Methods of Compliance

(i) The Manager, Chicago Aircraft Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(j) None.

Issued in Burlington, Massachusetts, on November 7, 2005.

Peter A. White,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 05–22712 Filed 11–15–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 47 and 159

[Docket No. RM06–3–000]

Prohibition of Energy Market Manipulation

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: The Federal Energy Regulatory Commission published in the **Federal Register** of October 27, 2005, a document proposing to add a part 47 and part 159 to Title 18 of the CFR. Two clauses in the proposed regulatory language for parts 47 and 159 were inadvertently incorporated into subparagraph text, but were intended to start a new line in the text since they are to modify all three subparagraphs. As such formatting is inconsistent with **Federal Register** requirements, these modifying clauses will be moved to the beginning of the paragraph.

FOR FURTHER INFORMATION CONTACT: Frank Karabetsos, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–88133.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission published in the **Federal Register** of October 27, 2005 (70 FR 61930), a document adding a part 47 under subchapter B (Regulations under the Federal Power Act) and a part 159 (Regulations under the Natural Gas Act) to Title 18 of the CFR. The proposed regulatory text for the two parts failed to set out certain sentences as modifying clauses. This document corrects that error.

Correction

In proposed rule FR Doc. 05–21423, beginning on page 61930 in the issue of October 27, 2005, make the following corrections:

§ 47.1 [Corrected]

1. On page 61933, in column 2, correct § 47.1(a) to read as follows:

§ 47.1 Prohibition of energy market manipulation.

(a) It shall be unlawful for any entity, directly or indirectly, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission,

(1) To use or employ any device, scheme, or artifice to defraud,

(2) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

(3) To engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person.

* * * * *

§ 159.1 [Corrected]

2. On page 61933, in column 3, correct § 159.1(a) to read as follows:

§ 159.1 Prohibition of energy market manipulation.

(a) It shall be unlawful for any entity, directly or indirectly, in connection with the purchase or sale of natural gas or the purchase or sale of transportation services subject to the jurisdiction of the Commission,

(1) To use or employ any device, scheme, or artifice to defraud,

(2) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

(3) To engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person.

* * * * *

Dated: November 10, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. 05–22755 Filed 11–15–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1301 and 1309

[Docket No. DEA–266P]

RIN 1117–AA96

Controlled Substances and List I Chemical Registration and Reregistration Application Fees

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: DEA is proposing to adjust the fee schedule for DEA registration and reregistration application fees relating to the registration and control of the manufacture, distribution and

dispensing of controlled substances and listed chemicals to appropriately reflect all costs associated with its Diversion Control Program as mandated by 21 U.S.C. 822. Specifically, DEA proposes to revise the fee schedule for controlled substances and List I chemical handlers so that all manufacturers, distributors, importers, exporters, and dispensers of controlled substances and of List I chemicals pay an annual fee, by registrant category, irrespective of whether they handle controlled substances or List I chemicals. This action responds to recent amendments to the Diversion Control Fee Account provisions in the Controlled Substances Act (CSA) and will bring DEA's fee collections into line with the new requirements.

DATES: Written comments must be postmarked, and electronic comments must be sent, on or before January 17, 2006.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–266'' on all written and electronic correspondence. Written comments sent via regular mail should be sent to the Deputy Administrator, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA **Federal Register** Representative/ODL. Written comments sent via express mail should be sent to DEA Headquarters, Attention: DEA **Federal Register** Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, VA 22301. Comments may be sent directly to DEA electronically by sending an electronic message to *dea.diversion.policy@usdoj.gov.* Comments may also be sent electronically through *http://www.regulations.gov* using the electronic comment form provided on that site. An electronic copy of this document is also available at the *http: //www.regulations.gov* Web site. DEA will accept attachments to electronic comments in Microsoft Word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file format other than those specifically listed above.

FOR FURTHER INFORMATION CONTACT: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537; Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

The Controlled Substances Act (CSA) requires that all manufacturers, distributors, dispensers, importers and exporters of controlled substances and List I chemicals obtain an annual registration with DEA (21 U.S.C. 822 and 958(f)). In addition, the CSA, as codified in 21 U.S.C. 821, authorizes the Attorney General, who in turn redelegates this authority to the Administrator of DEA, to ''promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances and listed chemicals'' (21 U.S.C. 821 as amended by Pub. L. 108–447).

In October 1992, Congress passed the Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act of 1993 which changed the source of funding for DEA's Diversion Control Program (DCP) from being part of DEA's Congressional appropriation to full funding by registration and reregistration fees through the establishment of the Diversion Control Fee Account (DCFA). The Appropriations Act of 1993 required that ''[f]ees charged by the Drug Enforcement Administration under its diversion control program shall be set at a level that ensures the recovery of the full costs of operating the various aspects of that program.'' The legislation did not, however, provide clarification on what constituted the ''Diversion Control Program,'' thus leaving open the issue as to what fee-setting criteria should be used to determine which costs could be reimbursed from the DCFA.

In response to the Appropriations Act of 1993, DEA published a Notice of Proposed Rulemaking (NPRM) in December 1992 to adjust the registration and reregistration fees for controlled substance registrants (57 FR 60148, December 18, 1992). In the absence of guidelines from Congress regarding the specific criteria to be followed in identifying costs and setting the fees, DEA relied on the plain language of the Appropriations Act of 1993 and proposed fees necessary to cover the costs of the activities that were identified within the budget decision unit known as the ''Diversion Control Program.''

At the time that the Appropriations Act of 1993 was passed, 21 U.S.C. 821 did not extend to chemical control activities; accordingly, there were no registration or fee requirements for handlers of List I chemicals. DEA therefore excluded chemical control costs from its Final Rule implementing the requirements of the Appropriations Act of 1993 (58 FR 15272, March 22, 1993). Congress amended 21 U.S.C. 821 on December 17, 1993 to require reasonable fees relating to ''the registration and control of regulated persons and of regulated transactions'' (Domestic Chemical Diversion Control Act of 1993, 3(a), Pub. L. 103–200, 107 Stat. 2333); however, despite this amendment, DEA has continued to endeavor to maintain separate funding for its controlled substances diversion control and its chemical diversion control activities.

Following publication of DEA's Final Rule, the American Medical Association (AMA) and others filed a lawsuit objecting to the increase in registration and reregistration fees on the grounds that DEA had failed to provide adequate information as to what activities were covered by the fees and how they were justified. Upon appeal, the United States Court of Appeals for the District of Columbia Circuit remanded, without vacating, the rule to the DEA, requiring the agency to provide an opportunity for meaningful notice and comment on the fee-funded components of the DCP. In doing so, the court confirmed the boundaries of the DCP that DEA can fund by registration fees, finding that the current statutory scheme (21 U.S.C. 821 and 958) required DEA to set reasonable registration fees to recover the full costs of the DCP. (*AMA* v. *Reno,* 57 F.3d 1129, 1135 (D.C. Cir. 1995)).

Thus, in the absence of a simple, objective measure by which DCP costs could be identified and the appropriate fees calculated, both DEA and the courts have looked to 21 U.S.C. 821 and 958 to define the guidelines for determining what costs should be included in the calculation of the fees and from whom the fees might be collected.

On November 20, 2004, Congress passed the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 2005 which provided clarification as to the activities constituting the DCP (Pub. L. 108–447). This Act was included in the Consolidated Appropriations Act of 2005, which was signed into law by the President on December 8, 2004 (Pub. L. 108–447). The Act amends 21 U.S.C. 886a to define the Diversion Control Program as ''the controlled substance and chemical diversion control activities of the Drug Enforcement Administration,'' which are further defined as the ''activities related to the registration and control of the manufacture, distribution and dispensing, importation and exportation of controlled substances and listed chemicals.'' It also amends the section to provide that reimbursements from the DCFA ''* * * shall be made without distinguishing between expenses related to controlled substances activities and expenses related to chemical activities.''

Finally, the Act amends 21 U.S.C. 821 and 958(f) to make the language of those sections consistent with the definition of the DCP (Pub. L. 108–447). The net effect of the amendments is to allow DEA to deposit all registration and reregistration fees (controlled substance and chemical) into the Fee Account and fund all controlled substance and chemical diversion control activities from the account without distinguishing as to the type of activity (controlled substance or chemical) being funded.

Independent of the passage of the Appropriations Act, DEA undertook an internal reorganization to increase operational efficiencies and overall effectiveness. The resulting internal reorganization removes the focus from the single business decision unit of the DCP to a focus on diversion control activities irrespective of the business decision unit. That is, the diversion control activities of DEA are no longer contained in a single business decision unit identified as the Diversion Control Program. Thus, in identifying the activities that constitute the DCP, DEA must now look across the whole agency at all functions related to the registration and control of the manufacture, distribution, dispensing, importation and exportation of controlled substances and listed chemicals. This approach adheres both to the definition of the DCP contained in 21 U.S.C. 821 and 958 and to the court's requirement that there must be a nexus between the DCP activities funded through fees and the registration and control of the manufacture, distribution, and dispensing of controlled substances and of regulated persons and regulated transactions (now ''listed chemicals'').

In keeping with this organizational and functional change, DEA has re-assessed the diversion control activities to be funded by the Diversion Control Fee Account (DCFA). Accordingly, this Notice of Proposed Rulemaking identifies all of the activities that constitute the DCP irrespective of organizational structure within the agency and in compliance with 21 U.S.C. 821 and 958, and 21 U.S.C. 886a that require that DEA charge reasonable fees relating to the registration and control of the manufacture, distribution, dispensing, importation and exportation of controlled substances and listed chemicals and that DEA collect fees adequate to fully fund the controlled substances and chemical diversion control activities that constitute the DCP. This rule also proposes a revised fee structure for manufacturers, distributors, dispensers, importers and exporters of controlled substances and List I chemicals, proposing that all handlers of controlled substances and listed chemicals pay an annual fee, by registrant category to support the DCP irrespective of whether they handle controlled substances or List I chemicals. While the Appropriations Act of 2005 specifies changes to the DCP effective immediately, the proposed new fee schedule would not take effect until Fiscal Year 2006. While all DCP activities will be supported by the DCFA, for Fiscal Year 2005 effective February 1, 2005, the combination of available DCFA funds together with the anticipated fee revenues from existing registrants will be sufficient to cover the additional costs being transferred to the fee-fundable aspects of the DCP.

Under the current fee structure, DEA would collect a total of approximately $161,005,104 from registrant fees to support the DCP in Fiscal Year 2006. The estimated Fiscal Year 2006 cost of operating the DCP according to the clarified definition contained in the Consolidated Appropriations Act of 2005 is $201,673,000 as further described below. To this figure, DEA is required to add $15 million to be transferred to the U.S. Treasury (see below for further explanation), necessitating that DEA collect through registrant fees a total of $216,673,000 to ''fully fund'' the DCP in Fiscal Year 2006. Without an increase in registrant fees to support the DCP DEA would fall short by about $55,667,896 and would not have sufficient funds to operate the DCP. Therefore, the following rule proposes to adjust the current registrant fee schedule to ensure the full funding of the DCP through registrant fees.

In addition, because of the statutory clarification that now includes all chemical diversion control activities as part of the DCP, DEA is modifying the fee structure for DCP registrants to include chemical registrants as explained below. To date, chemical registrants have paid fees ranging from a subsidized $116 to $595 (initial registration fee) that covered only the costs of registration and reregistration and not the actual costs of operating the chemical diversion control program.

These fees are user fees in contrast to the fees paid for by controlled substances registrants. User fees are required under the Independent Offices Appropriations act (IOAA) and the guidelines set forth in OMB Circular A–25. User fees are paid when a special benefit is conferred to a particular group, individual, etc. OMB Circular A–25, Section 6 describes a special benefit as a government service which ''enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those that accrue to the general public (e.g., receiving a patent, insurance, or guarantee provision, or a license to carry on a specific activity or business or various kinds of public land use).''

The section specifies that ''[a] user charge * * * will be assessed against each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public.'' The section further requires that the user charge be sufficient to ''recover the full cost to the Federal Government for providing the special benefit.''

Under this definition, a registration to manufacture, distribute, import or export List I chemicals is a special benefit; and therefore, the fees paid by chemical handlers are user fees subject to the IOAA. In contrast, because the IOAA applies ''only when there is no independent statutory source for the charging of a fee or where a fee statute fails to define fee setting criteria'' (*AMA* v. *Reno*, 857 F. Supp. at 84 (D.D.C. 1994)), the fees paid to date by controlled substances registrants are *not* user fees. That is, because Congress established the DCFA by passing the 1993 Appropriations Act with its collection and spending criteria established by prior law (21 U.S.C. 821 and 958(f)), the registration fees charged by DEA pursuant to the 1993 Appropriations Act are not user fees subject to the IOAA because the act constitutes an independent statutory source for charging the fee and it defines fee-setting criteria, i.e., to cover the full costs of the DCP (*AMA* v. *Reno*, 857 F. Supp. 80 (D.D.C. 1994)).

To comply with the clarified definition of the DCP and the statutory requirement that the operating costs of the DCP be fully funded through registrant fees, DEA must fund all aspects of the DCP, including the chemical diversion program, through fees. Because there is an independent statutory source for charging fees relating to all activities of the DCP (controlled substances and chemical), the fees charged to chemical registrants are no longer considered user fees subject to IOAA provisions, and DEA must collect fees from both chemical and controlled substances registrants to support the DCP.

Diversion Control Program Responsibilities

The mission of DEA's Diversion Control Program (DCP) is to enforce the provisions of the Controlled Substances Act as they pertain to ensuring the availability of controlled substances and

listed chemicals for legitimate uses in the United States while exercising controls to prevent the diversion of these substances and chemicals for illegal uses.

DCP activities include: Program priorities and field management oversight; coordination of major investigations; drafting and promulgating of regulations relating to the enforcement of the CSA and other legislation; establishment of national policy on diversion; fulfillment of U.S. obligations under drug control treaties; advice and leadership on state legislation/regulation; legal control of drugs and chemicals not previously under Federal control; control of imports and exports of licit controlled substances and chemicals; and program resource planning and allocation, among other activities.

Current Fee-Funding

As described above, in the absence of specific guidance as to which activities were encompassed within the DCP and thus fee-fundable, DEA to date has adhered to the plain language of the Appropriations Act of 1993 and used the budget categories that have historically been included in the DCP budget request of the Attorney General. As described in DEA's 1996 **Federal Register** Final Rule, for the purposes of budget formulation and appropriation DEA historically has identified only those resources (with their overhead costs) that were *specifically* devoted to diversion control efforts as part of the DCP (to include only its controlled substances activities) in its annual budget submission to Congress (61 FR 68624, December 30, 1996).

DCP activities funded to date through the DCFA have been limited to those in the DCP business decision unit and constituted controlled substances scheduling, registration, investigation, inspection, data collection and analysis, training, establishing production quotas, cooperative efforts with state, local and other Federal agencies, cooperative efforts with the regulated industry, international activities relating to the registration and control of the manufacture, distribution and dispensing of controlled substances, and attendant management, personnel, administrative and clerical oversight for the DCP. Fee-fundable activities also have included travel, rent, utilities, supplies, equipment and services associated with the above-listed activities and activities related to the control of licit controlled substances in the U.S. in which the initial source is foreign.

DEA had not included the chemical control activities of the DCP among those funded through the DCFA for the reasons outlined previously. However, with the clarification in 21 U.S.C. 886a, as amended by Public Law 108–447, of the activities that constitute the DCP and that must be fully funded through registrant fees, DEA is now proposing to include activities related to the registration and control of the manufacture, distribution, importation and exportation of listed chemicals among those activities to be funded through the DCFA. That is, DEA would no longer distinguish, for the purposes of fee funding, between its diversion control activities relating to controlled substances and those relating to chemicals. These chemical diversion control activities include the overall control of listed chemicals, registration, investigation, inspection, data collection and analysis, cooperative efforts with the regulated industry, related management and administrative positions devoted to diversion control activities, other personnel, and administrative and clerical oversight. Activities also include a portion of the Office of Training (TR) that specifically supports the activities of the DCP. The TR develops, prepares and provides training, guidance and instruction for Diversion Investigators, Diversion Task Force Officers, regulatory agencies, state and local law enforcement, and DCP personnel on controlled substances and chemical diversion control, advance skills and technical knowledge, and systems applications. The total cost of the transfer of chemical diversion control activities to the DCFA in Fiscal Year 2005 was $15,773,000. This figure is specified in the Appropriations Act and excludes $7.6 million in Congressionally-appropriated funds that have been provided for the chemical diversion control activities for Fiscal Year 2005. While the chemical program costs would be transferred to the DCP to comply with the clarification in 21 U.S.C. 886a and therefore paid for out of DCFA (fee) funds, for Fiscal Year 2005 these additional chemical diversion control costs to the DCP would be supported through available DCFA funds combined with anticipated fee collections from existing registrants. That is, while upon enactment the Appropriations Act of 2005 provides for the inclusion of chemical diversion control activities as part of the DCP and therefore subject to fee-funding and support through the DCFA, there will be no changes to registration and reregistration fees for Fiscal Year 2005 to accommodate the transfer of these activities to the DCP.

Beginning in Fiscal Year 2006, DEA proposes to include the additional chemical diversion control costs in the calculation of DCFA registration and reregistration fees, as shown below in the proposed new fee schedule. The chemical diversion control costs that would be supported through the DCFA total $24,499,000 for Fiscal Year 2006, $24,874,000 for Fiscal Year 2007, and $25,223,000 for Fiscal Year 2008, accounting for salary growth and inflation.

In addition to the TR costs described above, these chemical costs also include 188 chemical diversion control positions; 12 overseas diversion investigators dedicated to the DCP; and costs associated with the chemical transaction system (CTRANS). Historically, the DEA has funded diversion investigator positions overseas through appropriated funds, rather than the DCFA, despite the fact that these positions directly support the activities of the DCP. Diversion investigators in foreign posts conduct similar activities to domestic diversion investigators to prevent the diversion of legal controlled substances and listed chemicals to illegal uses. These individuals' activities include, but are not limited to, conducting background investigations of foreign companies involved in the importation into or exportation from the U.S. of controlled substances and listed chemicals; working with foreign governments on matters relating to the international controls on controlled substances and listed chemicals; advise the U.S. mission and DEA management regarding diversion of controlled substances and listed chemicals within foreign territory; training foreign law enforcement and regulatory counterparts to detect, investigate and prevent diversion of controlled substances and listed chemicals and working with foreign law enforcement and regulatory authorities regarding issues involving the illegal exportation from or illegal importation into the United States of controlled substances pharmaceuticals or listed chemicals. (It is the responsibility of the DCP to prevent the diversion of controlled substances and listed chemicals regardless of geographic source.)

The Fiscal Year 2006 cost of the foreign diversion investigator positions described above is $3,107,000. Accounting for inflation and salary growth, the Fiscal Year 2007 cost to be fee-funded would be $3,181,000, and the Fiscal Year 2008 cost would be $3,222,000.

DEA also is proposing to include as fee-fundable activities certain other internal resources that support the DEA's diversion control activities but that have not been considered part of the DCP in the past because of separate budget delineations. As was discussed more fully in previous rulemakings regarding the DCFA, while these elements support diversion control efforts, because the overall functions of the business decision units in which these activities are located are not devoted primarily to diversion control and because they have historically not been included as part of the DCP budget requests of the Attorney General, these elements have been supported by appropriated funds and not by the DCFA (61 FR 68624, December 30, 1996).

DEA identified several of these resources in its Final Rule published on October 10, 2003, including two sections within the Office of Chief Counsel that support DCP activities and a portion of the Office of Forensic Sciences Special Testing Laboratory that supports authentic sample analyses for licit drugs (68 FR 58587, October 10, 2003). Other elements of DEA diversion control operations that support the DCP but have been traditionally funded through appropriated funds, and therefore not through the DCFA, also include diversion investigators assigned to overseas posts.

Following the internal reorganization of the DEA to increase operational efficiencies and shift the focus from business decision units to activities that support the registration and control of the manufacture, dispensing and distribution of controlled substances and listed chemicals and in response to revisions to 21 U.S.C. 886a, DEA reviewed all activities relating to the registration and control of the manufacture, distribution, importation, exportation and dispensing of controlled substances and listed chemicals across the agency. As described above, with the internal reorganization, the agency's diversion control activities are no longer contained in an operational entity or office but rather the DCP now comprises all diversion control activities across the agency. Accordingly, the proposed, new fee structure includes all costs associated with the registration and control of the manufacture, distribution and dispensing of controlled substances and listed chemicals, including some diversion control costs previously funded through appropriated funds and not through registrant fees, regardless of the business decision unit in which these activities are located within the DEA. These costs include portions of the Office of Chief Counsel, the Office of Forensic Sciences Special Testing Laboratory, and the Special Operations Division; 12 foreign diversion investigator positions; additional special agent and intelligence analyst costs not currently supported through the DCFA; and ten new risk management positions to meet new mandates for the DCP. These components and associated costs are described below. A portion of DEA's internal computer system, Firebird, which already is supported through the DCFA, is included in the fee-fundable costs. The total cost of these non-chemical additions for Fiscal Year 2006 is $28,243,000.

In the Office of Chief Counsel, two components—the Diversion and Regulatory Policy Section and the Diversion and Regulatory Litigation Section—provide diversion control support through the litigation of administrative actions related to DEA registrants and through legal support on regulatory policy matters. The Diversion and Regulatory Policy Section serves as the principal legal advisor on all policy issues related to controlled substances and chemical diversion control. The Diversion and Regulatory Litigation Section represents DEA in administrative hearings regarding the revocation or denial of DEA registrations to handle controlled substances or listed chemicals and provides legal advice related to the regulation of DEA registrants. DEA has identified 12 positions in these two sections (11 attorneys and one support position) that support the DCP. The Fiscal Year 2006 costs of the Chief Counsel support that would be funded through registrant fees totals $2,085,000, as contained in the President's Budget Request. The Fiscal Year 2007 costs would be $2,118,000, and the Fiscal Year 2008 costs are anticipated to be $2,149,000 to account for inflation and annual salary increases.

DEA's Office of Forensic Sciences Special Testing Laboratory supports authentic sample analyses for licit controlled substances. Fifty-one percent of the current Source Determination receipts handled by the Laboratory relate to licit drugs; that is, 51 percent of the costs of the Laboratory's eight positions directly relate to the control of the manufacture, distribution and dispensing of controlled substances as part of the DCP and therefore would be subject to fee funding under the proposed, revised fee structure. The Fiscal Year 2006 Laboratory costs that would be supported through fee funds total $820,000. The anticipated Fiscal Year 2007 Laboratory costs to be fee-funded would be $832,000, and the Fiscal Year 2008 costs would be $844,000, to account for inflation and annual salary increases.

Based on Fiscal Year 2004 work hour analyses, DEA determined that there were 42 special agent work years utilized on investigations related to the diversion of pharmaceutical drugs. In Fiscal Year 2004, the DCFA funded the equivalent of 13 special agent work years on these investigations. DEA proposes to fully fund through the DCFA the support that is being provided for diversion investigations by including an additional 29 special agent positions. Special agents support the DCP by serving warrants, providing undercover support, making arrests, and providing other functions that diversion investigators are prohibited from executing but that are core elements of diversion control. The additional 29 positions would be added to the DCFA costs and would support both controlled substances and chemical diversion control efforts. The Fiscal Year 2006 cost for these additional special agent positions totals $6,530,000 (as contained in the President's Budget Request). Accounting for inflation and growth in salaries, the Fiscal Year 2007 cost would be $6,627,000, and the anticipated Fiscal Year 2008 cost would be $6,727,000.

In addition, for Fiscal Years 2006, 2007, and 2008 DEA proposes to add a total of 23 special agent positions to the budget supported by the DCFA. These positions include five special agents dedicated to the Office of Enforcement Operations to serve as Diversion Control Enforcement Coordinators for diversion control activities and 18 special agents to serve as part of Diversion Investigation Groups. The Fiscal Year 2006 cost of these positions will be $4,704,000. The Fiscal Year 2007 and Fiscal Year 2008 costs are anticipated to be $4,598,000 and $5,607,000, respectively, accounting for the phase-in of these positions over time and inflation and salary increases.

DEA also proposes to fee-fund a total of 73 intelligence analyst positions of which 67 positions are in the field, four positions are located in the Special Operations Division, and two positions support the Office of Enforcement Operations. Intelligence analysts support the DCP by providing investigative and analytical support for domestic and international diversion control investigations, including the collection and evaluation of investigative intelligence information and the development of innovative techniques and solutions to assist the investigative process. Other duties of

intelligence analysts include researching business records, financial documents and person histories of diversion targets; analyzing emails, and related communications; researching compiling and analyzing import and export data to identify potential diversion targets; and determining associates of criminal targets and criminal organizations. The additional intelligence analysts in the field offices will free up diversion investigators who currently perform much of their own intelligence analysis. Freeing up diversion investigator time will allow them to focus more on investigative activities, including interviewing potential witnesses, conducting pharmacy surveys, conducting audits, and coordinating investigative activities with state and local law enforcement. Among the field positions, 34 intelligence analysts would be phased in during Fiscal Year 2006, and 33 intelligence analysts would be phased in during Fiscal Year 2007. The total cost of the intelligence analyst positions to the DCFA in Fiscal Year 2006 would be $4,465,000, as indicated in the President's Budget Request. As the positions continue to be phased in, the Fiscal Year 2007 fee-fundable intelligence analyst costs would be $8,761,000. The anticipated intelligence analysts cost in Fiscal Year 2008 would be $11,105,000.

DEA also must request DCFA funding for ten risk management positions to support a coordinated, government-wide approach to address prescription drug diversion and abuse. During 2003, more than six million Americans abused prescription drugs. To better address this problem, the Appropriations Act of 2005 created, without funding, 10 risk management positions and directed DEA to work cooperatively with other Federal agencies to ensure that drugs with a high risk of abuse are marketed appropriately (Pub. L. 108–447). The Fiscal Year 2006 cost of these positions to be fee-funded is $1,247,000. The Fiscal Year 2007 cost of these additional 10 diversion control staff for this effort is anticipated to be $1,589,000, and the anticipated Fiscal Year 2008 cost for these positions to be fee-funded is $1,613,000.

In calculating the revised fee schedule, DEA used the DCFA Budget Request for Fiscal Year 2006 and the expected DCFA Budget Requests for Fiscal Year 2007 and Fiscal Year 2008 in addition to the required annual $15 million transfer to the U.S. Treasury as mandated by the CSA (21 U.S.C. 886a). In addition to covering with fee funds all program elements and activities related to the registration and control of the manufacture, distribution and dispensing of controlled substances and listed chemicals, DEA must transfer the first $15 million of fee revenue to the General Fund of the Treasury each year (21 U.S.C. 886a(1)). For each fiscal year between Fiscal Year 1993 through Fiscal Year 1998, Congress appropriated an additional $15 million to offset this requirement (a total infusion to the DCFA of $90 million). However, beginning in Fiscal Year 1999, Congress discontinued this additional appropriation.

The Fiscal Year 2006 cost of the DCP is $201,673,000, including a base of $148,931,000 for controlled substances diversion control activities, $24,499,000 in chemical diversion control activities, and $28,243,000 for the additional non-chemical DCP support activities described above; that is:

- 29 existing special agent positions to be dedicated to investigations of trafficking in pharmaceutical controlled substances (FY06 cost of $6,530,000);
- 23 new special agent positions also to be dedicated to diversion control investigations (FY06 cost of $4,704,000);
- 51% of eight Office of Forensic Sciences Special Testing Laboratory positions that support authentic sample analyses for licit controlled substances (FY06 cost of $820,000);
- 12 Chief Counsel positions to provide diversion control support through the litigation of administrative actions related to DEA registrants and through legal support on regulatory policy matters (FY06 cost of $2,085,000);
- 10 new risk management positions, mandated by the 2005 Appropriations Act, to support a coordinated, government-wide approach to address prescription drug diversion and abuse (FY06 cost of $1,247,000)
- 67 field intelligence analysts and 6 Headquarters intelligence analysts to support domestic and international diversion control investigations (FY06 cost of $4,465,000 for 34 of these analysts)
- 1 professional/administrative position and non-personnel support for the Special Operations Division directly related to diversion control efforts (FY06 cost of $4,392,000)
- Firebird operations costs to support communication and infrastructure of the diversion control program (FY06 cost of $4,000,000)

With the addition of the required $15 million transfer to the U.S. Treasury, the total amount necessary to collect through registrant fees in Fiscal Year 2006 is $216,673,000.

The anticipated costs of the DCP for Fiscal Year 2007, including all activities relating to the registration and control of the manufacture, distribution and dispensing of controlled substances and listed chemicals, is $213,723,000. DEA used an inflation figure of 1.5 percent, based on the President's Economic Assumptions, to account for increases in costs against the Fiscal Year 2006 costs described above. Including the required $15 million transfer to the U.S. Treasury, the total amount necessary to collect through registrant fees in Fiscal Year 2007 is $228,723,000. The anticipated costs of the DCP for Fiscal Year 2008, including all activities relating to the registration and control of the manufacture, distribution and dispensing of controlled substances and listed chemicals, is $219,964,000. Including the required $15 million transfer to the U.S. Treasury, the total amount necessary to collect through registrant fees in Fiscal Year 2008 is $234,964,000.

The total amount necessary to collect through fee funds for the Fiscal Year 2006–2008 period to fully fund the DCP as mandated by statute is $680,360,000. Under the current fee structure (without the proposed changes included in this rule), DEA would collect only $491,944,464 for the Fiscal Year 2006–2008 period through registrant fees and would therefore fall short by $188,415,536 of the necessary costs of operating the DCP. DEA's proposed new fee structure, therefore, would provide the necessary additional funds to ensure that the operational costs of the DCP are fully funded through registrant fees as mandated by statute.

Based on the total amount necessary to collect for Fiscal Years 2006–2008, DEA developed the specific fee levels for each registrant category reflected in the table below. To calculate these fees, DEA first estimated the number of paying registrants for this period and then used this figure combined with the amount required to be collected (with the new fees) to set the new fee rate. To calculate the number of paying registrants, DEA used logarithmic regression analysis to project the yearly registrant figures based on historical registrant data for the period of Fiscal Year 1994 through Fiscal Year 2004 combined with conservative estimates for future registration activity.

DEA then estimated the number of registrants for each registrant category since different registrant categories pay different fees. Because there were insufficient data for some activities to perform regression analysis, DEA used the percentage for each category using data from the corresponding cycle years in the past.

Finally, based on the analyses conducted, DEA developed the fees for each registrant category consistent with its current fee structure and fee-paying ratios that have been in existence since the inception of registrant fees. During this time, DEA has evaluated other options to apportion registrant fees, including, for example, basing fees on the usage level of controlled substances or listed chemicals. However, in each case, DEA determined that any potential benefits to an alternative fee structure system would be more than offset by greater administrative costs and burdens which must be borne by registrants. For more discussion on this topic, please see DEA's 2002 Final Rule (67 FR 51988, August 9, 2002) and its 1996 Final Rule (61 FR 68624, December 30, 1996).

In developing the proposed fee schedule, DEA opted to set the fee level for a three-year period (FY 2006–2008) for two reasons. First, the vast majority of registrants are practitioners who pay a three-year registration fee. These registrants are divided into roughly three separate groups who pay their three-year registration fees on alternate year cycles. Accordingly, the fees below reflect the *total amount* necessary to be collected for the full three-year period (FY 2006–2008), divided by projected registrants and accounting for projected registrant growth by category for each fiscal year. Because different categories of registrants pay different amounts, DEA weighted the number of registrants in each category to ensure the appropriate reflection in the fee schedule. Because the fees reflect the total amount necessary for collection over a three year period (Fiscal Years 2006–2008) and because the type and number of registrants varies from year to year, the total amount of fees collected may not equal the requested budget level for any given year. Surplus fees collected in one year are used to offset fee collection shortfalls in another year. In no case are fees spent in excess of the levels enacted by Congress.

In evaluating options to structure the fee schedule, DEA opted to remain with the current fee structure to reduce reporting burdens on registrants and operational costs associated with the DCP which would then be passed on to registrants through annual fees. One option suggested in the past by registrants is to structure fees based on total usage of controlled substances and/or listed chemicals. Such an option would require significant reporting by registrants and oversight by DEA and would greatly increase the administrative costs of operating the DCP.

Current Fees Paid by Registrants

Currently, both handlers of controlled substances and of List I chemicals pay annual registration and reregistration fees. Under the current structure and prior to the passage of the Consolidated Appropriations Act of 2005 which clarified the activities constituting the DCP, fees paid by controlled substances registrants fully supported all costs of the DCP which to date have excluded chemical diversion control activities and other activities that support the DCP but have traditionally been funded through Congressional appropriations. In contrast, fees paid by chemical registrants supported only the costs associated with registration and reregistration and the administration of the chemical diversion control program—that is *not* the full costs of chemical diversion control activities.

Currently, handlers of controlled substances pay annual registration and reregistration fees ranging from $130 to $1,625 depending on the category of registrant. Practitioners, mid-level practitioners, dispensers, researchers, and narcotic treatment programs pay an annual registration or reregistration fee of $130 (practitioners pay a three-year registration fee of $390). Distributors, importers and exporters pay an annual fee of $813, and manufacturers pay an annual fee of $1,625. The DEA last adjusted the fee schedule for controlled substances handlers in October 2003 (68 FR 58587, October 10, 2003). DEA anticipates that even without the statutory changes prompting the proposed fee adjustments contained in this rule, the agency would have needed to adjust the fees for controlled substances registrants to account for inflation and normal growth in operational costs in Fiscal Year 2006. Approximating a 15 percent increase in fees due to inflation and increases in program costs would have raised the annual practitioner fee, for example, from $130 to $150.

Chemical handlers pay different annual fees for initial registration and subsequent reregistrations and depending on the category of registrant. Manufacturers, non-retail distributors, importers and exporters of List I chemicals currently pay $595 for each initial annual registration and $477 for each subsequent annual reregistration. Retail distributors pay an annual fee of $248 plus a $7 application processing fee for each initial registration to conduct business and $116 per year for each reregistration (60 FR 32447, June 22, 1995). Since October 1997, non-retail distributors of pseudoephedrine, phenylpropanolamine, and combination ephedrine drug products have been required to pay only $116 of the initial $595 registration fee (62 FR 53958, October 17, 1997). Fees for chemical registrants have not been adjusted since passage of the DCDCA in 1995, and DEA has not revisited the fees except with regard to the waiver of a portion of the fees in 1997 (62 FR 53958).

The current chemical fees reflected only the operational costs of registering and reregistering List I chemical handlers and *not* the full costs of the chemical diversion control program; however, with the revisions to 21 U.S.C. 886a that specifically defines the DCP to include both controlled substances and chemical diversion control activities, the DEA must collect fees from both controlled substances and chemical registrants at a level sufficient to fully fund the operations of the DCP (21 U.S.C. 886a). DEA estimates that if chemical registrants were required to pay for the full operating costs of the chemical diversion control program, registration and reregistration fee for all categories of non-retail chemical registrants would be in excess of $6,400. This calculation is based on the current population of registered non-retail chemical handlers.

Development of the Proposed New Fee Schedule

To recover the full costs of the DCP as required by statute and as outlined in the preceding sections, DEA proposes to incrementally raise the fees in accordance with its existing fee structure as shown in the following table. The table also includes the current fees paid by each category and the total increase in fees.

Registrant class	Proposed new annual fee	Current annual fee	Difference
Manufacturers (controlled substances)	$2,386	$1,625	$761
Manufacturers (chemical)	2,386	**595	1,791
Distributors, Importers/Exporters (controlled substances), including reverse distributors	1,193	813	380
Distributors, Importers/Exporters (chemical)	1,193	**595	598

Registrant class	Proposed new annual fee	Current annual fee	Difference
Chemical Retail Distributors	1,193	**255	938
Dispensers/Practitioners*	191	130	61
Researchers, Narcotic Treatment Programs	191	130	61

*Practitioners, mid-level practitioners, pharmacies, hospitals/clinics, and teaching institutions would pay a fee of $573 for a three-year registration period.
**Registration.

Although these fees did not go into effect on October 1, 2005, the first day of Fiscal Year 2006, DEA will publish a Final Rule in as timely a manner as possible. Under the proposed, new fee schedule, controlled substances registrants and chemical registrants in the same registrant category (e.g., manufacturers) would pay the same fee regardless of the substance or chemical being handled. Moreover, by this Notice, DEA proposes to remove differentiation between retail and non-retail distributors of List I chemicals; that is, both retail and non-retail distributors would pay the same fee as described above.

The fee structure above would supplant the current fee structure for controlled substances and for chemical registrants. To clarify further, in establishing the new fee structure above, DEA also would be withdrawing, by this notice, its Notice of Proposed Rulemaking issued on December 1, 1999, which proposed changes in registration and reregistration fees for manufacturers, distributors, importers, exporters and retail distributors of List I chemicals (64 FR 67216, December 1, 1999). DEA also would be rescinding, by this notice, the 1997 Notice of Fee Waiver published on October 17, 1997 (62 FR 53958). By this notice DEA had waived a portion of the registration fee for non-retail distributors of pseudoephedrine, phenylpropanolamine, and combination ephedrine drug products.

DEA also is removing the registration waiver for persons who distribute, import or export a product containing a List I chemical if that person is registered with the DEA to manufacture, distribute or dispense, import or export a controlled substance, since the registration to handle List I chemicals and the registration to handle controlled substances, while both supporting the DCP and therefore subject to the same fees per the Appropriations Act of 2005, cover different regulatory, legal and business requirements and also relate to different customer bases.

With the changes to 21 U.S.C. 821 and 958, and 21 U.S.C. 886a (summarized above) that require that DEA charge reasonable fees relating to the registration and control of the manufacture, distribution, dispensing, importation and exportation of controlled substances and listed chemicals and that DEA collect fees adequate to fully fund the controlled substances and chemical diversion control activities that constitute the DCP, the DEA must calculate the full costs of the DCP based on the full operating costs of its controlled substances diversion activities and its chemical diversion activities. Accordingly, persons who handle (manufacture, dispense, distribute, import or export) both controlled substances and List I chemicals must maintain a separate registration for each business activity.

Regulatory Analysis

The rulemaking actions contained in this notice are necessary to ensure the full funding of the DCP through registrant fees as required by 21 U.S.C. 886a(3). Recent statutory clarification as to what constitutes the DCP and an internal reorganization of the DCP to improve operational efficiencies prompted DEA to conduct a review of the activities and costs constituting the DCP and to recalculate the registrant fees accordingly. This action was necessary despite the last fee adjustment on October 10, 2003.

By registering with the DEA to handle controlled substances and List I chemicals (as required by 21 U.S.C. 822) and paying the annual registration fee (or three-year registration fee for some registrants), registrants receive the benefit of being able to manufacture, distribute import, export, and/or dispense controlled substances and/or listed chemicals. Entities that have not registered or do not maintain a current registration with the DEA to handle controlled substances and/or List I chemicals are, in general, not permitted to handle these substances (certain exceptions apply as delineated in 21 U.S.C. 822(c)).

Registration of controlled substances and List I chemical handlers is a key element of the system of controls related to the manufacture and distribution of these substances. Congress established this system of controls through the Controlled Substances Act, the Chemical Diversion and Trafficking Act, and subsequent legislation in an effort to prevent, detect and eliminate the diversion of controlled pharmaceuticals and listed chemicals from legitimate channels to illegal use, while at the same time ensuring their availability for legitimate purposes. This system has proven effective in reducing the diversion of these substances from legitimate channels to the illicit market. Components of this system include the registration of all controlled substances and listed chemicals and their handlers (Handlers of List II chemicals exclusively are not required to register with the DEA), recordkeeping, security, and manufacturing quotas, all under DEA DCP oversight. This proposed rule does not change the requirement to register to handle controlled substances and/or List I chemicals but rather changes the annual fee associated with registration and reregistration.

Regulatory Flexibility Act

The Regulatory Flexibility Act as amended (5 U.S.C. 601–612), requires agencies to determine whether a proposed rule will impose a significant economic impact on a substantial number of small entities. The proposed fees affect a wide variety of entities. The following table indicates the sectors affected by the proposed rule.

TABLE 1.—INDUSTRIAL SECTORS OF DEA REGISTRANTS

Sector	NAICS code	Controlled substance	Chemical
Chemical Manufacturing (organic, inorganic)	3251	.....	X
Medicinal and Botanical Manufacturing	325411	X	X

TABLE 1.—INDUSTRIAL SECTORS OF DEA REGISTRANTS—Continued

Sector	NAICS code	Controlled substance	Chemical
Pharmaceutical Manufacturing	325412	X	X
Adhesive Manufacturing	325520		X
Toilet Preparation Manufacturing	325620		X
Other Chemical Manufacturing	325998		X
Drugs and Druggist Sundries Wholesalers	424210	X	X
General Line Grocery Wholesalers	424410	X	X
Confectionary Merchant Wholesalers	414450		X
Chemical Wholesalers	424690		X
Tobacco Wholesalers	424940		X
Miscellaneous Wholesalers	424990		X
Supermarkets	445110	X	X
Drug Stores	446110	X	X
Discount Stores	452112	X	X
Warehouse Clubs and Superstores	452910	X	X
Testing Labs	541380	X	X
Packaging and Labeling Services	561910		X
Colleges, Universities, Professional Schools	611310	X	
Ambulatory Health Care Services	621	X	
Hospitals	622	X	

Controlled substances are prescription drugs; firms manufacturing and distributing them usually specialize in prescription pharmaceuticals. The supermarkets, discount stores, warehouse clubs, and superstores handle controlled substances through their distribution centers and their pharmacies. The listed chemical registrants are more diverse for two reasons. First, most of the listed chemicals have non-drug uses, such as chemical intermediates, flavorings, fragrances, and adhesives. Second, the drug products containing List I chemicals are primarily over-the-counter (OTC) medicines. These are distributed by drug wholesalers who specialize in non-prescription drugs, wholesalers who supply convenience stores, and grocery, pharmacy, and discount stores (e.g., superstores) that operate their own distribution centers. Of the 460 registered manufacturers, importers, exporters, and distributors who hold multiple registrations, only 70 hold both a controlled substance and a chemical registration.

As of December 2004 there are 1,178,361 controlled substances registrants and 2,998 chemical registrants, as shown in Table 2.

TABLE 2.—NUMBER OF REGISTRANTS BY BUSINESS ACTIVITY

	Controlled substances	Chemicals
Practitioners	984,271	
Midlevel Practitioners	103,239	
Retail Pharmacy	62,865	*
Hospital/Clinic	15,650	
Teaching Institution	443	
Manufacturer	485	208
Distributor	823	2,413
Researcher	7,458	
Analytical Laboratory	1,541	
Importer	159	195
Exporter	253	181
Narcotic Treatment Program	1,174	
Total	1,178,361	2,998

*Retail distributor.

Not all registrants listed in Table 2 are subject to the fees. Publicly owned institutions, law enforcement agencies, and military personnel are exempt from fees. In addition, DEA waives fees for charitable organizations, some of which are registered as chemical distributors (OTC medicines are distributed by some food banks and exported by aid organizations).

The number of registrations overstates the number of individual registrants. The CSA requires a separate registration for each location where controlled substances are handled and a separate registration for each business activity; that is a registration for activities related to the handling of controlled substances and a registration for activities relating to the handling of List I chemicals. Some registrants may conduct multiple activities under a single registration (e.g., manufacturers may distribute without being registered as a distributor), but firms may hold multiple registrations for a single location. Individual practitioners who prescribe, but do not store controlled substances, may use a single registration at multiple locations within a state, but need separate registrations for each state in which they practice and are authorized to dispense controlled substances. Firms with multiple locations must have separate registrations for each location.

Small Entities. Most DEA registrants are small entities under the Small Business Administration (SBA)

standards. Almost all practitioners would be considered small (annual revenues of less than $6 million to $8.5 million, depending on specialty). Narcotic treatment programs and many clinics would be considered small (revenues of less than $8.5 million). According to the American Hospital Association, there are currently 5,764 registered hospitals; 1,360 are operated by Federal, state, or local governments and are exempt from fees. Of the remaining hospitals, the rural hospitals (2,166 including publicly owned hospitals) are more likely to be small (revenues less than $29 million). About 20,000 of the pharmacies are independent and are likely to be small (revenues less than $6 million); some of the small chain pharmacy firms may also be considered small. The teaching institutions and researchers are generally associated with large institutions and are not expected to be small. Importers and exporters are frequently manufacturers; these are likely to be the larger companies. The remaining importers and exporters, however, will generally be classified as wholesalers and would probably be small under the SBA standard for wholesalers (100 employees). The manufacturing sector includes the major companies, but many of the firms are small under SBA standards (500 to 1,000 employees). The distributors have the widest variety of sizes, from the few large wholesalers that handle almost 90 percent of drugs to very small wholesalers handling an array of products. In general, because of the cost of security for controlled substances, controlled substances manufacturers and distributors are larger than chemical manufacturers and distributors. DEA has no basis for estimating the total number of small entities affected, but it is clearly a substantial number.

Impacts. As noted above, the proposed new registration fees range from $191 to $2,386 annually. These fees are per location and per registered business activity. DEA data indicate that 63 percent of controlled substances manufacturers hold at least two registrations (as a manufacturer, importer, exporter, or distributor); the highest number of registrations identified for a manufacturer was 67. For chemical manufacturers, 66 percent hold at least two registrations, with the highest number being 30. The percent of multiple registrations for controlled substance importers is 91 percent, for exporters, 88 percent, for distributors 55 percent; for chemical importers it is 77 percent, exporters 95 percent, and distributors 29 percent. The chain pharmacies hold registrations for each of their locations. The largest chain holds retail pharmacy registrations for more than 5,000 locations as well as almost 40 registrations for its distribution centers. The fees paid to DEA will range from $191 for dispensing registrants holding a single registration to more than $900,000 for the largest chain pharmacy with multiple locations. Most small registrants are expected to pay a single registration fee of either $191, $1,193 or $2,386 per year (or per year equivalent).

To assess whether the fees could impose a significant economic impact on a small entity, DEA considered whether the fees represent more than one percent of annual revenues for the registrant groups. For dispensers, the annual revenues would have to be below $17,900 to have the registration represent more than one percent of revenues. Medical practitioners granted authority to handle controlled substances have annual incomes well above that level; physician assistants, the mid-level practitioner with the lowest average salary, have annual salaries of about $65,000. The average independent pharmacy has sales of almost $2 million according to the National Association of Chain Drug Stores. The smallest clinics have revenue streams higher than $17,900. Consequently the higher fees will not impose a significant burden on dispensers.

For manufacturers, the 2002 Census data indicate that the value of shipments for the smallest chemical manufacturers (including drugs) ranged from $477,000 to $1.1 million per location (establishment). For this registrant group, therefore, the fee of $2,386 does not represent more than one percent of revenues and will not impose a significant burden.

The one registrant group for which the fees could exceed one percent of revenues is chemical distributors. Controlled substance distributors are generally larger drug wholesalers in part because of the cost of security they need to prevent theft of controlled substances and other prescription drugs. According to 2004 Duns data, between one percent and 11 percent of the wholesale sectors handling listed chemicals have revenues below $100,000. DEA does not collect financial data on its registrants, but it is possible that some chemical distributor registrants have revenues below $100,000. The proposed increase in annual reregistration fee for chemical distributors (from $477 to $1,193) could impose a significant burden on these registrants. The proposed increase in the initial registration fee (from a subsidized $116 to $1,193 annually) also could be a barrier to entrance for these very small firms. Based on its experience, however, DEA considers it unlikely that any firm that lacked the resources to pay the initial registration fee would be granted a registration because it would be unlikely to have the resources to maintain the records and provide the security necessary to prevent diversion of the products. Moreover, the proposed new registration fees for all wholesale level activities are far less than the estimated annual fee of $6,400 that chemical registrants would be charged if they were required to independently fund the chemical portion of the diversion control program. Combining all diversion control activities into a single Diversion Control Program, as mandated by the Consolidated Appropriations Act of 2005, results in scale efficiencies and overall reduced costs to all registrants.

The Deputy Administrator hereby certifies that this rulemaking has been drafted in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) and has provided above detailed regulatory analysis on the effects of this rulemaking on small entities. While DEA recognizes that this regulation will have a financial effect on registrants with the increase in fees, the change in fees is necessary to fully comply with 21 U.S.C. 886a and related statutes governing the Diversion Control Program and the Diversion Control Fee Account by which DEA is legally mandated to collect fees to cover the full costs of the Diversion Control Program as defined by all activities relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances and listed chemicals.

Executive Order 12866

The Deputy Administrator certifies that this rulemaking has been drafted in accordance with the principles in Executive Order 12866 1(b). DEA has determined that, because the proposed increased fees will result in a total increase of less than $70 million annually to be collected through fees (that is the difference between the amount collected annually under the current fee structure and the amount proposed to be collected under the proposed, new fee structure), this is not a significant regulatory action; however, it has been reviewed by the Office of Management and Budget. The fees to be collected represent only an increase of less than $70 million each year for the Fiscal Year 2006–2008 period (based on estimated fee collection figures) and are required to fully support the President's

budget for the DCP, as approved by Congress through the appropriations process. Therefore, DEA has no discretion in the establishment of the new fees and is required by law to collect registration and reregistration fees of sufficient amount to fully support the DCP.

Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate of $115,000,000 or more in any one year, and will not significantly or uniquely affect small governments. The proposed increase in fees for private sector entities and individuals will result in a total increase of less than $70 million annually to be collected through fees (that is the difference between the amount collected annually under the current fee structure and the amount proposed to be collected under the proposed, new fee structure). Moreover, the effect on individual entities and practitioners is minimal. The majority of the affected entities will pay a fee of $573 for a three year registration period (the equivalent of $191 per year) which equates to about 0.14 percent of annual income for most practitioners (the vast majority of all registrants). This rule is promulgated in compliance with 21 U.S.C. 886a that the full cost of operating the DCP be collected through registrant fees.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. While this rule will result in an annual effect on the economy of $100,000,000 or more, it will not result in a major increase in costs or prices or cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based companies to compete with foreign-based companies in domestic and export markets. This rule is not a discretionary action but rather responds to statutory clarification as to the activities constituting the DCP which, by law, must be fully funded through registrant fees (21 U.S.C. 821 and 21 U.S.C. 886a, respectively). Moreover, the individual effect on small business registrants is minimal. The majority of registrants considered to be small businesses are practitioners who will pay a three-year registration fee of $573 or the equivalent of $191 per year. For the majority of these practitioners, who compose the vast majority of registrants and registrants qualifying as small businesses, this fee represents about 0.14 percent of their annual mean salary. The impact on other small business entities is described in greater detail in the preceding regulatory analysis.

List of Subjects

21 CFR Part 1301

Administrative practice and procedure, Drug traffic control, Security measures.

21 CFR Part 1309

Administrative practice and procedure, Drug traffic control, Exports, Imports, Security measures.

For the reasons set out above, 21 CFR Parts 1301 and 1309 are proposed to be amended as follows:

PART 1301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS AND DISPENSERS OF CONTROLLED SUBSTANCES

1. The authority citation for part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 871(b), 875, 877, 951, 952, 953, 956, 957.

2. Section 1301.13 is proposed to be amended by revising paragraph (e)(1) to read as follows:

§ 1301.13 Application for registration; time for application; expiration date; registration for independent activities; application forms, fees, contents and signature; coincident activities.

* * * * *

(e) * * *

(1)

Business activity	Controlled substances	DEA application forms	Application fee ($)	Registration period (years)	Coincident activities allowed
(i) Manufacturing	Schedules I–V	New—225 Renewal—225a	2,386 2,386	1	Schedules I–V: May distribute that substance or class for which registration was issued; may not distribute or dispose any substance or class for which not registered. Schedules II–V: Except a person registered to dispose of any controlled substance may conduct chemical analysis and preclinical research (including quality control analysis) with substances listed in those schedules for which authorization as a mfg. was issued.
(ii) Distributing	Schedules I–V	New—225 Renewal—225a	1,193 1,193	1	
(iii) Reverse distributing	Schedules I–V	New—225 Renewal—225a	1,193 1,193	1	

Business activity	Controlled substances	DEA application forms	Application fee ($)	Registration period (years)	Coincident activities allowed
(iv) Dispensing or instructing (includes Practitioner, Hospital/Clinic, Retail Pharmacy, Central fill pharmacy, Teaching institution).	Schedules II–V	New—224 ..... Renewal—224a	573 573	3	May conduct research and instructional activities with those substances for which registration was granted, except that a mid-level practitioner may conduct such research only to the extent expressly authorized under state statute. A pharmacist may manufacture an aqueous or oleaginous solution or solid dosage form containing a narcotic controlled substance in Schedule II–V in Schedule II–V in a proportion not exceeding 20% of the complete solution, compound or mixture. A retail pharmacy may perform central fill pharmacy activities.
(v) Research	Schedule I	New—225 ..... Renewal—225a	191 191	1	A researcher may manufacture or import the basic class of substance or substances for which registration was issued, provided that such manufacture or import is set forth in the protocol required in § 1301.18 and to distribute such class to persons registered or authorized to conduct research with such class of substance or registered or authorized to conduct chemical analysis with controlled substances.
(vi) Research	Schedules II–V	New—225 ..... Renewal—225a 1	191 191	1	May conduct chemical analysis with controlled substances in those schedules for which registration was issued; manufacture such substances if and to the extent that such manufacture is set forth in a statement filed with the application for registration or reregistration and provided that the manufacture is not for the purposes of dosage form development; import such substances for research purposes; distribute such substances to persons registered or authorized to conduct chemical analysis, instructional activities or research with such substances, and to persons exempted from registration pursuant to § 1301.24; and conduct instructional activities with controlled substances.
(vii) Narcotic Treatment Program (including compounder).	Narcotic Drugs in Schedules II–V.	New—363 ..... Renewal—363a	191 191	1	
(viii) Importing	Schedules I–V	New—225 ..... Renewal—225a	1,193 1,193	1	May distribute that substance or class for which registration was issued; may not distribute any substance or class for which not registered.
(ix) Exporting	Schedules I–V	New—225 ..... Renewal—225a	1,193 1,193	1	
(x) Chemical Analysis	Schedules I–V	New—225 ..... Renewal—225a	191 191	1	May manufacture and import controlled substances for analytical activities or instructional activities; may distribute such substances to persons registered or authorized to conduct chemical analysis, instructional activities, or research with such substances and to persons exempted from registration pursuant to § 1301.24; may export such substances to persons in other countries performing chemical analysis or enforcing laws related to controlled substances or drugs in those countries; and may conduct instructional activities with controlled substances.

* * * * *

PART 1309—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, IMPORTERS, AND EXPORTERS OF LIST I CHEMICALS [AMENDED]

3. The authority citation for Part 1309 is proposed to be amended to read as follows:

Authority: 21 U.S.C. §§ 821, 822, 823, 824, 830, 871(b), 875, 877, 886a, 958.

4. Section 1309.11 is proposed to be revised to read as follows:

§§ 1309.11 Fee amounts.

(a) For each application for registration or reregistration to manufacture for distribution the applicant shall pay an annual fee of $2,386.

(b) For each application for registration or reregistration to distribute (either retail distribution or non-retail distribution), import, or export a List I chemical, the applicant shall pay an annual fee of $1,193.

5. Section 1309.12 is proposed to be revised to read as follows:

§§ 1309.12 Time and method of payment; refund.

(a) For each application for registration or reregistration to manufacture for distribution, distribute (either retail distribution or non-retail distribution), import, or export a List I chemical, the applicant shall pay the fee when the application for registration or reregistration is submitted for filing.

(b) Payment should be made in the form of a personal, certified, or cashier's check or money order made payable to ''Drug Enforcement Administration.'' Payments made in the form of stamps, foreign currency, or third party endorsed checks will not be accepted. These application fees are not refundable.

6. Section 1309.24 is proposed to be revised to read as follows:

§§ 1309.24 Waiver of registration requirement for certain activities.

(a) The requirement of registration is waived for any agent or employee of a person who is registered to engage in any group of independent activities, if such agent or employee is acting in the usual course of his or her business or employment.

(b) The requirement of registration is waived for any person whose activities with respect to List I chemicals are limited to the distribution of red phosphorus, white phosphorus, or hypophosphorous acid (and its salts) to: another location operated by the same firm solely for internal end-use; or an EPA or State licensed waste treatment or disposal firm for the purpose of waste disposal.

(c) The requirement of registration is waived for any person whose distribution of red phosphorus or white phosphorus is limited solely to residual quantities of chemical returned to the producer, in reusable rail cars and intermodal tank containers which conform to International Standards Organization specifications (with capacities greater than or equal to 2,500 gallons in a single container).

(d) The requirement of registration is waived for any retail distributor whose activities with respect to List I chemicals are limited to the distribution of below-threshold quantities of a pseudoephedrine, phenylpropanolamine, or combination ephedrine product that is regulated pursuant to § 1300.02(b)(28)(i)(D) of this chapter, in a single transaction to an individual for legitimate medical use, irrespective of whether the form of packaging of the product meets the definition of ''ordinary over-the-counter pseudoephedrine or phenylpropanolamine product'' under § 1300.02(b)(31) of this chapter.

(e) The requirement of registration is waived for any manufacturer of a List I chemical, if that chemical is produced solely for internal consumption by the manufacturer and there is no subsequent distribution or exportation of the List I chemical.

(f) If any person exempted under paragraph (b), (c) or (d) of this section also engages in the distribution, importation or exportation of a List I chemical, other than as described in such paragraph, the person shall obtain a registration for such activities, as required by § 1309.21 of this part.

(g) The Administrator may, upon finding that continuation of the waiver would not be in the public interest, suspend or revoke a waiver granted under paragraph (b), (c), or (d) of this section pursuant to the procedures set forth in §§ 1309.43 through 1309.46 and §§ 1309.51 through 1309.55 of this part.

(h) Any person exempted from the registration requirement under this section shall comply with the security requirements set forth in §§ 1309.71–1309.73 of this part and the recordkeeping and reporting requirements set forth under parts 1310 and 1313 of this chapter.

Dated: November 8, 2005.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 05–22681 Filed 11–15–05; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 015–2005]

Privacy Act of 1974; Implementation

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice, Tax Division, proposes to amend 28 CFR part 16 to exempt a newly revised Privacy Act system of records entitled ''Files of Applicants For Attorney and Non-Attorney Positions with the Tax Division, Justice/TAX–003,'' as described in today's notice section of the **Federal Register**, from 5 U.S.C. 552a(c)(3), (d)(1), and (e)(1). The exemptions will be applied only to the extent that information in a record is subject to exemption pursuant to 5 U.S.C. 552a(k)(2) and (k)(5). The exemptions are necessary to protect the confidentiality of employment records. The Department also proposes to delete as obsolete provisions exempting two former Tax Division systems of records: ''Freedom of Information/Privacy Act Request Files, Justice/TAX–004;'' and ''Tax Division Special Project Files, Justice/TAX–005.'' The records in Tax-004 are now covered by a Departmentwide system notice, ''Freedom of Information Act, Privacy Act, and Mandatory Declassification Review Requests and Administrative Appeals, DOJ–004''. The relevant records in TAX–005 are now part of the revised system entitled ''Criminal Tax Case Files, Special Project Files, Docket Cards, and Associated Records, Justice/TAX–001.''

DATES: Submit any comments by December 27, 2005.

ADDRESSES: Address all comments to Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (1400 National Place Building), Facsimile Number (202) 307–1853. To ensure proper handling, please reference the AAG/A Order No. on your correspondence. You may view an electronic version of this proposed rule at *http://www.regulations.gov*. You may also comment via the Internet to the DOJ/Justice Management Division at the following e-mail address: *DOJPrivacyACTProposed Regulations@usdoj.gov*; or by using the *http://www.regulations.gov* comment form for this regulation. When submitting comments electronically, you must include the AAG/A Order No. in the subject box.

FOR FURTHER INFORMATION CONTACT: Mary Cahill, (202) 307–1823.

SUPPLEMENTARY INFORMATION: This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, this order will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 16

Administrative Practices and Procedures, Courts, Freedom of Information, Sunshine Act and Privacy.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, it is proposed to amend 28 CFR part 16 as follows:

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

1. The authority for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), and 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, and 9701.

2. Section 16.93 is amended by:

a. Removing the first sentence of paragraph (a)(2);

b. Revising paragraph (b) introductory text;

c. Revising paragraphs (e) and (f).

Therefore, amend the section to read as follows:

§ 16.93 Exemption of Tax Division Systems—limited access.

* * * * *

(b) The system of records listed under paragraph (a)(1) of this section is exempted for the reasons set forth below, from the following provisions of 5 U.S.C. 552a:

* * * * *

(e) The following system of records is exempt from subsections (c)(3), (d)(1), and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2) and (k)(5): Files of Applicants for Attorney and Non-Attorney Positions with the Tax Division, Justice/TAX–003. These exemptions apply only to the extent that information in a record is subject to exemption pursuant to 5 U.S.C. 552a(k)(2) and (k)(5).

(f) Exemption from the particular subsections is justified for the following reasons:

(1) From subsection (c)(3) because an accounting could reveal the identity of confidential sources and result in an unwarranted invasion of the privacy of others. Many persons are contacted who, without an assurance of anonymity, refuse to provide information concerning an applicant for a position with the Tax Division. Disclosure of an accounting could reveal the identity of a source of information and constitutes a breach of the promise of confidentiality by the Tax Division. This would result in the reduction in the free flow of information vital to a determination of an applicant's qualifications and suitability for federal employment.

(2) From subsection (d)(1) because disclosure of records in the system could reveal the identity of confidential sources and result in an unwarranted invasion of the privacy of others. Many persons are contacted who, without an assurance of anonymity, refuse to provide information concerning an applicant for a Tax Division position. Access could reveal the identity of the source of the information and constitute a breach of the promise of confidentiality on the part of the Tax Division. Such breaches ultimately would restrict the free flow of information vital to a determination of an applicant's qualifications and suitability.

(3) From subsection (e)(1) because in the collection of information for investigation and evaluative purposes, it is impossible to determine in advance what exact information may be of assistance in determining the qualification and suitability of an applicant. Information which may appear irrelevant, when combined with other seemingly irrelevant information, can on occasion provide a composite picture of an applicant for a position which assists in determining whether the applicant should be hired.

Dated: November 7, 2005.

Paul R. Corts,

Assistant Attorney General for Administration.

[FR Doc. 05–22640 Filed 11–15–05; 8:45 am]

BILLING CODE 4410–16–P

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 017–2005]

Privacy Act of 1974; Implementation

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice, Bureau of Prisons (Bureau or BOP), proposes to exempt a Privacy Act system of records from the following subsections of the Privacy Act: (c)(3) and (4), (d)(1)–(4), (e)(2) and (3), (e)(5), and (g). This system of records is the ''Inmate Electronic Message Record System, (JUSTICE/BOP–013)'', as stated and described in today's notice section of the **Federal Register**.

The exemptions are necessary to preclude the compromise of institution security, to better ensure the safety of inmates, Bureau personnel and the public, to better protect third party privacy, to protect law enforcement and investigatory information, and/or to otherwise ensure the effective performance of the Bureau's law enforcement functions.

DATES: Submit any comments by January 17, 2006.

ADDRESSES: Address all comments to Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (1400 National Place Building), Facsimile Number (202) 307–1853. To ensure proper handling, please reference the AAG/A Order No. on your correspondence. You may view an electronic version of this proposed rule at *http://www.regulations.gov*. You may also comment via the Internet to the DOJ/Justice Management Division at the following e-mail address: *DOJPrivacyACTProposed Regulations@usdoj.gov*; or by using the *http://www.regulations.gov* comment form for this regulation. When submitting comments electronically, you must include the AAG/A Order No. in the subject box.

FOR FURTHER INFORMATION CONTACT: Mary Cahill, (202) 307–1823.

SUPPLEMENTARY INFORMATION: This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, this order will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 16

Administrative practices and procedure, Freedom of Information Act, Government in the Sunshine Act, and Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, it is proposed to amend 28 CFR part 16 as follows:

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL INFORMATION

1. The authority for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g) and 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717 and 9701.

2. Section 16.97 is amended by adding paragraphs (p) and (q) to read as follows:

§ 16.97 Exemption of Bureau of Prisons Systems—limited access.

* * * * *

(p) The following system of records is exempt from 5 U.S.C. 552a (c)(3) and (4), (d)(1)–(4), (e)(2) and (3), (e)(5), and (g):

Inmate Electronic Message Record System (JUSTICE /BOP–013).

(q) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and/or (k)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, the applicable exemption may be waived, either partially or totally, by the BOP. Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) to the extent that this system of records is exempt from subsection (d), and for such reasons as those cited for subsection (d) in paragraph (q)(3) below.

(2) From subsection (c)(4) to the extent that exemption from subsection (d) makes this exemption inapplicable.

(3) From the access provisions of subsection (d) because exemption from this subsection is essential to prevent access of information by record subjects that may invade third party privacy; frustrate the investigative process; jeopardize the legitimate correctional interests of safety, security and good order to prison facilities; or otherwise compromise, impede, or interfere with BOP or other law enforcement agency activities.

(4) From the amendment provisions of subsection (d) because amendment of the records may interfere with law enforcement operations and would impose an impossible administrative burden by requiring that, in addition to efforts to ensure accuracy so as to withstand possible judicial scrutiny, it would require that law enforcement information be continuously reexamined, even where the information may have been collected from the record subject. Also, some of these records come from other Federal criminal justice agencies or State, local and foreign jurisdictions, or from Federal and State probation and judicial offices, and it is administratively impossible to ensure that records comply with this provision.

(5) From subsection (e)(2) because the nature of criminal and other investigative activities is such that vital information about an individual can be obtained from other persons who are familiar with such individual and his/her activities. In such investigations it is not feasible to rely solely upon information furnished by the individual concerning his/her own activities since it may result in inaccurate information and compromise ongoing criminal investigations or correctional management decisions.

(6) From subsection (e)(3) because in view of BOP's operational responsibilities, application of this provision to the collection of information is inappropriate. Application of this provision could provide the subject with substantial information which may in fact impede the information gathering process or compromise ongoing criminal investigations or correctional management decisions.

(7) From subsection (e)(5) because in the collection and maintenance of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely and complete. Material which may seem unrelated, irrelevant or incomplete when collected may take on added meaning or significance at a later date or as an investigation progresses. Also, some of these records may come from other Federal, State, local and foreign law enforcement agencies, and from Federal and State probation and judicial offices and it is administratively impossible to ensure that the records comply with this provision. It would also require that law enforcement information be continuously reexamined even where the information may have been collected from the record subject.

(8) From subsection(g) to the extent that this system is exempted from other provisions of the Act.

Dated: November 7, 2005.

Paul R. Corts,

Assistant Attorney General for Administration.

[FR Doc. 05–22642 Filed 11–15–05; 8:45 am]

BILLING CODE 4410–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[R05–OAR–2005–IN–0008; FRL–7997–7]

Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Delaware County to Attainment of the 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to make a determination that the Delaware County ozone nonattainment area has attained the 8-hour ozone National Ambient Air Quality Standard (NAAQS). This proposed determination is based on three years of complete, quality-assured ambient air quality monitoring data for the period of 2002–2004 that demonstrate that the 8-hour ozone NAAQS has been attained in the area.

EPA is proposing to approve a request from the State of Indiana to redesignate Delaware County to attainment of the 8-hour ozone NAAQS. This request was submitted by the Indiana Department of Environmental Management (IDEM) on August 25, 2005. In proposing to approve this request, EPA is also proposing to approve the State's plan for maintaining the 8-hour ozone NAAQS through 2015 in this area as a revision to the Indiana State Implementation Plan (SIP). EPA is also proposing to find adequate and approve the State's 2015 Motor Vehicle Emission Budgets (MVEBs) for this area.

In the final rules section of this **Federal Register**, EPA is approving the State's ozone redesignation request and the requested SIP revision as a direct final rule without prior proposal because EPA views this action as non-controversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we do not receive any adverse comments in response to these direct final and proposed rules, we do not contemplate taking any further action in relation to this proposed rule. If EPA receives adverse comments with respect to this rule, we will publish a timely withdrawal of the action, informing the public that the rule will not take effect. EPA will respond to the public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in

commenting on this action should do so at this time.

DATES: Written comments must be received on or before December 16, 2005.

ADDRESSES: Submit comments, identified by Regional Material in EDocket (RME) ID No. R05–OAR–2005–IN–0008, by one of the following methods:

1. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. Agency Web site: *http://docket.epa.gov/rmepub/.* RME, EPA's electronic public docket and comments system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: *mooney.john@epa.gov.*

4. Fax: (312) 886–5824.

5. Mail: You may send written comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

6. Hand delivery: Deliver your comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to RME ID No. R05–OAR–2005–IN–0008. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided and may be made available online at *http://docket.epa.gov/rmepub/,* unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov, or e-mail. The EPA RME Web site and the Federal regulations.gov Web site are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. We recommend that you telephone Edward Doty, Environmental Scientist, at (312) 886–6057 before visiting the Region 5 office. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057, *doty.edward@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

I. What Action Is EPA Taking?

EPA is proposing to take several related actions. EPA is proposing to make a determination that the Delaware County, Indiana nonattainment area has attained the 8-hour ozone standard and that Delaware County has met the requirements for redesignation under section 107(d)(3)(E) of the Clean Air Act. EPA is thus proposing to approve a request to change the legal designation of Delaware County from nonattainment to attainment for the 8-hour ozone NAAQS. EPA is also proposing to approve Indiana's maintenance plan as a SIP revision for Delaware County (such approval being one of the Clean Air Act criteria for redesignation of an area to attainment status). The maintenance plan is designed to keep Delaware County in attainment of the ozone NAAQS for the next 10 years. Additionally, EPA is announcing its action on the Adequacy Process for the newly-established 2015 Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_X) MVEBs for this area. The Adequacy comment periods for the 2015 MVEBs began on August 2, 2005, with EPA's posting of the availability of the State's submittal on EPA's Adequacy Web site at: *http://www.epa.gov/otaq/transp/conform/adequacy.htm.* The Adequacy comment period for these MVEBs ended on September 1, 2005. No requests for this submittal or adverse comments on this submittal were received during the Adequacy comment periods. Please see the Adequacy Section of this rulemaking for further explanation on this process. Therefore, we are finding adequate and approving the State's 2015 VOC and NO_X MVEBs for transportation conformity purposes.

II. Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information, see the Direct Final Rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available electronically at RME or in hard copy at the above address. (Please telephone Edward Doty at (312) 886–6057 before visiting the Region 5 Office.)

Dated: November 9, 2005.

Margaret Guerriero,

Acting Regional Administrator, Region 5.

[FR Doc. 05–22695 Filed 11–15–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2005–0251; FRL–7741–6]

Inert Ingredients; Proposal to Revoke 30 Pesticide Tolerance Exemptions for 28 Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revoke 30 exemptions from the requirement of a tolerance that are associated with 28 inert ingredients because these substances are no longer contained in active Federal Insecticide, Fungicide,

and Rodenticide Act (FIFRA) pesticide product registrations. These ingredients are subject to reassessment by August 2006 under section 408(q) of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). Upon the issuance of the final rule revoking the tolerance exemptions, the 30 tolerance exemptions will be counted as ''reassessed'' for purposes of FFDCA's section 408(q).

DATES: Comments must be received on or before January 17, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number OPP–2005–0251, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov/*. Follow the on-line instructions for submitting comments.
- *Agency Website*: *http://www.epa.gov/edocket/*. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- *E-mail*: Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID number OPP–2005–0251.
- *Mail*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID number OPP–2005–0251.
- *Hand Delivery*: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number OPP–2005–0251. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number OPP–2005–0251. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.epa.gov/edocket/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the regulations.gov websites are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102) (FRL–7181–7).

Docket: All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket/*. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 306–0404; e-mail address: *angulo.karen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET *(http://www.epa.gov/edocket/)*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*.

C. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through EDOCKET, regulations.gov, or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the rulemaking by docket ID number and other identifying information (subject heading, **Federal Register** date, and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a

Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background and Statutory Findings

This proposed rule is issued pursuant to section 408(d) of FFDCA (21 U.S.C. 346a(d)). Section 408 of FFDCA authorizes the establishment of tolerances, exemptions from the requirement of a tolerance, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or tolerance exemption, food containing pesticide residues is considered to be unsafe and therefore, ''adulterated'' under section 402(a) of FFDCA. If food containing pesticide residues is found to be adulterated, the food may not be distributed in interstate commerce (21 U.S.C. 331(a) and 342 (a)).

III. What Action is the Agency Taking?

EPA is proposing to revoke 30 exemptions from the requirement of a tolerance for 28 inert ingredients because those substances are no longer contained in currently registered pesticide products requiring reassessment under section 408(q) of FFDCA. It is EPA's general practice to revoke tolerances and tolerance exemptions for pesticide chemical residues (which includes both active and inert ingredients) for which there are no associated active registered uses under FIFRA, or for which there are no registered products to which the tolerance or tolerance exemption applies, or for tolerances or tolerance exemptions that have been superseded, unless a person commenting on the proposal indicates a need for the tolerance or exemption to cover residues in or on imported commodities or legally treated domestic commodities.

Listed below are the 28 inert ingredients and their associated 30 tolerance exemptions that are subject to this proposal. EPA is proposing that the revocation of these 30 tolerance exemptions will become effective on the date of the final rule's publication in the Federal Register. For counting purposes, and based on this proposed action, 30 exemptions would be counted as reassessments toward the August 2006 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

1. Ammonium thiocyanate (40 CFR 180.920).

2. Animal waste material (produced by the thermophilic digestion of cattle and poultry manure) (40 CFR 180.920).

3. Butyl benzyl phthalate (40 CFR 180.1062).

4. Condensation product of orthophenylphenol with 5 moles of ethylene oxide (40 CFR 180.920).

5. Coumarone-indene resin, conforming to 21 CFR 172.215 (40 CFR 180.910).

6. Diacetone alcohol (40 CFR 180.920).

7. Diacetyl tartaric acid esters of mono, and diglycerides of edible fatty acids (40 CFR 180.910 and 180.930).

8. 2,2-Dichloro-*N*-(1,3-dioxolan-2-ylmethyl)-*N*-2-propenylacetamide (40 CFR 180.1077).

9. Isoamyl acetate (40 CFR 180.920).

10. Methyl ester of rosin, partially hydrogenated (as defined in 21 CFR 172.615) (40 CFR 180.910).

11. Methyl-1-alkylamido ethyl-2-alkyl-imidazolinium methyl sulfate (40 CFR 180.1133).

12. 2-[Methyl [(perfluoroalkyl)alkyl(C2-C8)sulfonyl] amino]alkyl(C2-C8) acrylate--alkyl (C2-C8)methacrylates-*N*-methylolacrylamide copolymer (40 CFR 180.930).

13. Modified polyester resin derived from ethylene glycol, fumaric acid, and rosin (40 CFR 180.910).

14. Montmorillonite-type clay treated with polytetrafluoroethylene (PTFE; CAS Reg. No. 9002–84–0) (40 CFR 180.910).

15. Nitrile rubber modifed acrylonitrile methylacrylate (CAS Reg. No. 27012–62–0) conforming to 21 CFR 177.1480 (40 CFR 180.930).

16. Paraformaldehyde (40 CFR 180.920 and 180.930).

17. Pentaerythritol ester of modified resin (40 CFR 180.910).

18. Pentaerythritol stearates mixture (CAS Reg. No. 85116–93–4) which include pentaerythritol monostearate (CAS Reg. No. 78–23–9), pentaerythritol distearate (CAS Reg. No. 13081–97–5), pentaerythritol tristearate (CAS Reg. No. 28188–24–1) and pentaerythritol tetrastearate (CAS Reg. No. 115–83–3) (40 CFR 180.910).

19. Phenolic resins (40 CFR 180.920).

20. Sodium *N*-lauroyl-*N*-methyltaurine (40 CFR 180.910).

21. Sodium *N*-palmitoyl-*N*-methyltaurine (40 CFR 180.910)

22. Sodium oleyl sulfate (40 CFR 180.910).

23. Sodium salt of partially or completely saponified dark wood rosin (as defined in 21 CFR 178.3870(a)(4)) (40 CFR 180.920).

24. Tannin (40 CFR 180.920).

25. Toluene (40 CFR 180.920).

26. Trimethylolpropane (CAS Reg. No. 77–66–9) (40 CFR 180.920) (Note: This entry in 40 CFR 180.920 has an incorrect CAS number and it will be revoked. The other entry in 40 CFR 180.920 for this chemical has the correct CAS number, is currently being used in pesticide products, and is a candidate for reassessment.)

27. Wood rosin acid, potassium salts, conforming to 21 CFR 178.3870 (40 CFR 180.930).

28. Woolwax alcohol (40 CFR 180.920).

A. What Can I Do if I Wish to Maintain an Exemption that the Agency is Proposing to Revoke?

EPA's records show that the inert ingredients subject to this proposed rule are not contained in any currently registered pesticide products with uses that would require tolerances or tolerance exemptions under section 408 of FFDCA. Parties who believe that EPA's records are incorrect and that one or more of these ingredients are indeed contained in a currently registered pesticide product are encouraged to submit documentation to EPA in the form of the currently registered pesticide product's accepted Confidential Statement of Formula. Parties who know of a pending registration action for a product that contains an inert ingredient subject to this proposed rule may submit documentation to EPA in the form of a copy of the Agency's letter confirming the receipt of an application for registration or registration amendment for such product. In addition, parties who are currently in the process of developing a pesticide product containing an inert ingredient subject to this proposed rule may submit to EPA a letter asserting their intention to apply for a FIFRA section 3 registration of said product within 2 years. This letter must include documentation of the inclusion of the inert ingredient in the proposed pesticide product, such as a description of the formulation's ingredients, and must confirm their intention to submit an application for registration or registration amendment within 2 years

from the publication date of this proposed rule.

EPA is aware that inert ingredients are also contained in pesticide adjuvant products which are not subject to registration under FIFRA. The Agency does not keep records of currently used adjuvants or their ingredients, therefore, it has been unable to conclusively confirm the use of adjuvants containing one of these inert ingredients. Parties who know of currently used adjuvant products that contain an inert ingredient subject to this proposed rule are encouraged to submit documentation to EPA in the form of the adjuvant product's current label and/or documentation of the registration of the adjuvant product with a State adjuvant registration program.

Also, inert ingredient tolerance exemptions will be retained if the tolerances or exemptions (which EPA refers to as ''import'' tolerances) are necessary to allow importation into the United States of food containing such residues. Through this proposed rule, the Agency is inviting individuals who need these import tolerance exemptions to identify those exemptions that are needed to cover imported commodities.

EPA will retain an inert ingredient tolerance exemption if the documentation described above is submitted to EPA by the end of the comment period as specified under **DATES** in this document, and the Agency can verify the existence of a currently registered pesticide product, a registration action pending at EPA, an import tolerance, or a currently used adjuvant product that contains the ingredient in question.

Parties interested in the retention of any of the tolerance exemptions subject to this proposed rule should be aware that because these ingredients are currently subject to reassessment under section 408(q) of FFDCA, additional data may be needed to support retention of the exemption. Reassessment activities for such ingredients must be completed by August 2006. If the Agency is unable to determine that the exemptions for these ingredients meet the FFDCA standard for reassessment, the Agency will revoke the exemptions.

B. When Do These Actions Become Effective?

EPA is proposing that revocation of these tolerance exemptions become effective on the day the final rule revoking these tolerance exemptions is published in the **Federal Register**. If you have comments regarding whether the effective date allows sufficient time for treated commodities to clear the channels of trade, please submit comments as described under Unit I.C. Similarly, if you have comments regarding these tolerance exemption revocations or the effective date of the revocations, please submit comments as described under Unit I.C. Any commodities treated with the pesticide products containing an inert ingredient subject to this proposed rule, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(i)(5), as established by FQPA. Under this section, any residues of these pesticide chemicals in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

1. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and;

2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

VI. Statutory and Executive Order Reviews

In this proposed rule, EPA is proposing to revoke specific tolerance exemptions established under section 408(d) of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerance in this proposed rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. The Agency hereby certifies that this proposed action will not have significant negative economic impact on a substantial number of small entities. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This proposed rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this proposed rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include

regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 28, 2005.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

§ 180.910 [Amended]

2. Section 180.910 is amended by removing from the table the entries for:

a. Coumarone-indene resin, conforming to 21 CFR 172.215;

b. Diacetyl tartaric acid esters of mono- and diglycerides of edible fatty acids;

c. Methyl ester of rosin, partially hydrogenated (as defined in 21 CFR 172.615);

d. Modified polyester resin derived from ethylene glycol, fumaric acid, and rosin;

e. Montmorillonite-type clay treated with polytetrafluoroethylene (PTFE; CAS Reg. No. 9002–84–0);

f. Pentaerythritol ester of modified resin;

g. Pentaerythritol stearates mixture (CAS Reg. No. 85116–93–4) which include pentaerythritol monostearate (CAS Reg. No. 78–23–9), pentaerythritol distearate (CAS Reg. No. 13081–97–5), pentaerythritol tristearate (CAS Reg. No. 28188–24–1) and pentaerythritol tetrastearate (CAS Reg. No. 115–83–3);

h. Sodium *N*-lauroyl-*N*-methyltaurine; and

i. Sodium *N*-palmitoyl-*N*-methyltaurine

j. Sodium oleyl sulfate;

§ 180.920 [Amended]

3. Section 180.920 is amended by removing from the table the entries for:

a. Ammonium thiocyanate;

b. Animal waste material (produced by the thermophilic digestion of cattle and poultry manure);

c. Condensation product of orthophenylphenol with 5 moles of ethylene oxide;

d. Diacetone alcohol;

e. Isoamyl acetate;

f. Paraformaldehyde;

g. Phenolic resins;

h. Sodium salt of partially or completely saponified dark wood rosin (as defined in 21 CFR 178.3870(a)(4));

i. Tannin;

j. Toluene;

k. Trimethylolpropane (CAS Reg. No. 77–66–9) (180.920); and

l. Woolwax alcohol.

§ 180.930 [Amended]

4. Section 180.930 is amended by removing from the table the entries for:

a. Diacetyl tartaric acid esters of mono- and diglycerides of edible fatty acids;

b. 2-[Methyl (perfluoroalkyl)alkyl(C2-C8)sulfonyl] amino]alkyl(C2-C8) acrylate--alkyl (C2-C8)methacrylates-*N*-methylolacrylamide copolymer;

c. Nitrile rubber modifed acrylonitrile methylacrylate (CAS Reg. No. 27012–62–0) conforming to 21 CFR 177.1480;

d. Paraformaldehyde; and

e. Wood rosin acid, potassium salts, conforming to 21 CFR 178.3870.

§§ 180.1062, 180.1077, and 180.1133 [Removed]

5. Sections 180.1062, 180.1077, and 180.1133 are removed.

[FR Doc. 05–22614 Filed 11–15–05; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 173 and 177

[Docket No. PHMSA–2005–22987 (HM–238)]

RIN 2137–AE06

Hazardous Materials: Requirements for the Storage of Explosives and Other High-Hazard Materials During Transportation

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: PHMSA is considering requirements to address the current safety and security risks associated with the storage of explosives during transportation. In this notice, we are soliciting comments concerning measures to reduce the risks posed by the storage of explosives while they are in transportation and whether regulatory action is warranted. We also invite comments as to whether enhanced requirements for storage incidental to movement should apply to other hazardous materials (*e.g.*, materials toxic by inhalation).

DATES: Comments must be received by February 14, 2006.

ADDRESSES: *Comments.* You may submit comments identified by the docket number (PHMSA–2005–22987) by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- Web Site: *http://dms.dot.gov*. Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–402, Washington, DC 20590–0001.
- Hand Delivery: To the Docket Management System; Room PL–402 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this notice. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading under **SUPPLEMENTARY INFORMATION**.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to the Docket Management System (see **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Ben Supko, Office of Hazardous Materials Standards, telephone (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

On July 16, 2002, the Federal Motor Carrier Safety Administration (FMCSA) and the Research and Special Programs Administration (RSPA, the predecessor

agency to the Pipeline and Hazardous Materials Safety Administration (PHMSA, we)) published an Advance Notice of Proposed Rulemaking (ANPRM) under Docket HM–232A (67 FR 46622) entitled ''Security Requirements for Motor Carriers Transporting Hazardous Materials.'' In the ANPRM, FMCSA and RSPA examined the need for enhanced security requirements for motor carrier transportation of hazardous materials. FMCSA and RSPA requested comments on a variety of security measures including: escorts, vehicle tracking and monitoring systems, emergency warning systems, remote shut-offs, direct short-range communications, and notification to State and local authorities. The ANPRM also addressed the issue of explosives storage in safe havens. We received approximately 80 comments in response to the ANPRM.

On March 19, 2003, FMCSA published a further notice (68 FR 13250) that RSPA had assumed the lead role for this rulemaking proceeding. Due to the complexity of the issues raised in Docket HM–232A and the number of comments received on the ANPRM, RSPA decided to consider the storage of explosives in a separate rulemaking. RSPA indicated its intentions in the October 30, 2003 final rule published under Docket HM–223 (68 FR 61906) entitled ''Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage.'' In the final rule, which became effective on June 1, 2005 (*see* 69 FR 70902; December 8, 2004), RSPA clarified the applicability of the HMR to specific functions and activities related to the transportation of hazardous materials in commerce. In the preamble to the HM–223 final rule, RSPA identified issues related to the storage of hazardous materials during transportation that need to be addressed (68 FR 61906; 61931). RSPA noted that the current HMR requirements applicable to the storage of explosives during transportation need to be reevaluated to ensure that they adequately account for potential safety and security risks. For example, the agency has concerns regarding the lack of Federal standards for safe havens and inconsistent State requirements.

II. Comments Received for HM–232A Rulemaking on Storage and Safe Havens

Twenty-one commenters on the HM–232A ANPRM provided specific information on safe havens. In general, commenters support the continued use of safe havens. However, commenters also suggest that the term ''safe haven'' lacks a cohesive definition among Federal regulatory agencies, most notably the U.S. DOT and the Nuclear Regulatory Commission. The commenters indicate that the lack of a consistent definition for the term ''safe haven'' has led to confusion and questions regarding the level of protection provided at these locations. Commenters request that standards be developed to provide details on the construction, maintenance, availability, and use of safe havens. Without clearly defined standards to follow, commenters state that any future reliance on safe havens may actually make the hazardous materials stored there more susceptible to safety and security threats than if they were stored at other locations.

Commenters suggest that until an infrastructure of secure safe havens is developed across the country (*e.g.*, a system that includes federally regulated safe havens that are strategically located on major chemical and explosive shipping lanes at convenient 500 mile intervals) they should be able to use their own discretion to determine if a safe haven is sufficiently secure. In addition, commenters state that in many instances a driver's best defense against security threats is to blend in with other trucks on the road and at rest stops. Therefore, some commenters stated that a standard that allows shipments to be parked in secure areas that provide an adequate level of security may be more appropriate then a standard that only allows the use of designated safe havens. These secure areas may consist of well-lit private property that is protected by a fence and equipped with a controlled-access gate, monitored parking in an industrial area, or a truck stops that has been modified to meet ''safe haven'' standards.

One commenter notes that safe havens are often small and difficult to maneuver, a safety problem that will be compounded by any increase in the transportation industry's dependence on safe havens. The majority of commenters agree that safe havens and secured on-site areas are effective security measures for the temporary storage of explosives in transportation, provided those areas meet the National Fire Protection Association's document 498 Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives or an equivalent standard. Commenters recommend that we adopt NFPA 498 in the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180).

III. Purpose of This ANPRM

As discussed in more detail below, the HMR require shipments stored during transportation to conform to the same requirements that apply when the shipments are actually moving (*e.g.*, shipping papers, emergency response information, hazard communication, packaging, and segregation). The HMR also require facilities at which explosives and other high-hazard materials are offered or stored during transportation to have security plans. The security plan must be based on an assessment of possible security risks and must include measures to address those risks. Otherwise, the HMR do not include specific requirements for facilities at which explosives or other high-hazard materials are stored during transportation. The HMR do not establish specific standards for storage facilities nor do they limit the amount of material that may be stored in a single location.

We are concerned that current HMR requirements may not adequately address the safety and security risks associated with the storage during transportation of explosives and other high-hazard materials. Thus, we are seeking comments and information on the adequacy of existing regulatory requirements and the need for additional, more specific requirements.

This ANPRM is focused primarily on explosives storage; however, we invite commenters to address issues related to the storage of other types of high-hazard materials as well. We note in this regard that, in another proceeding (Docket HM–232E (69 FR 50988; August 16, 2004)), PHMSA and the Department of Homeland Security are examining the need for enhanced security requirements for the rail transportation of hazardous materials that pose a toxic inhalation hazard. Security measures being considered include improvements to security plans, modification of methods used to identify shipments, enhanced requirements for temporary storage, and implementation of tracking and communication systems.

Provided below is a list of government and industry standards for explosives storage that are based on a variety of factors, including but not limited to, the mode of transportation, the type of explosives, and whether the explosive is in transportation.

- Hazardous Materials Regulations (49 CFR parts 171–180).
- Federal Motor Carrier Safety Regulations (49 CFR parts 350–399).
- United States Coast Guard Requirements applicable to explosives storage (33 CFR parts 101–126).
- Bureau of Alcohol, Tobacco, Firearms, and Explosives Regulations for explosives in commerce (27 CFR part 555).

• National Fire Protection Association's NFPA 498, ''Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives''.
• Institute of Makers of Explosives Safety Library Publication No. 27, ''Security in Manufacturing, Transportation, Storage and use of Commercial Explosives''.
• Surface Deployment and Distribution Command, ''SDDC Freight Traffic Rules Publication NO. 1C (MFTRP NO. 1C)''.

In the sections that follow we provide brief descriptions of these standards and their applicability to the transportation and storage of explosives.

IV. HMR Requirements Applicable to Explosives Storage

General. The HMR require hazardous materials stored incidental to movement to meet all the applicable requirements for hazard communication (including shipping papers and emergency response information), packaging, and handling that apply when shipments are actually moving in transportation. The HMR include specific carrier requirements for transportation of hazardous materials by air, highway, rail, and vessel.

Explosives, or Class 1 materials, are one of the most stringently regulated hazardous materials under the HMR. The HMR define a Class 1 material as any substance or article that is designed to function by explosion—that is, an extremely rapid release of gas or heat—or one that, by chemical reaction within itself, functions in a similar manner even if not designed to do so (49 CFR 173.50(a)). Class 1 materials are divided into six divisions (49 CFR 173.50(b)). As provided in the following table, assignment of an explosive to a division depends on the degree and nature of the explosive hazard.

Division	Hazard	Description of hazard	Examples
1.1	Mass explosion hazard	This explosive will affect almost the entire load instantaneously	Grenades, mines, and nitroglycerin.
1.2	Projection hazard without a mass explosion hazard.	This explosive will project fragments outward at some distance	Rockets and warheads.
1.3	Fire hazard and either a minor projection hazard or minor blast hazard or both but not a mass explosion hazard.	This explosive will cause fire and may or may not project fragments outward at some distance.	Projectiles, signal smoke, and tracers for ammunition.
1.4	Minor explosion hazard	The explosive affects of this material are largely confined to the package and no projection of fragments of any appreciable size or range is expected.	Ammunition, airbags, and model rocket motors.
1.5	Very insensitive explosive	This explosive has a mass explosion hazard, but is represented by a low probability of detonation while in transportation.	Blasting agents and ammonia-nitrate fuel oil mixture.
1.6	Extremely insensitive article	This explosive is an article that contains only extremely insensitive detonating substances which demonstrate a negligible probability of accidental initiation or propagation.	Insensitive article and military.

The HMR prohibit transportation of an explosive unless it has been examined, classed, and approved by PHMSA's Associate Administrator for Hazardous Materials Safety, with separate provisions covering the transportation of new explosives for examination or developmental testing, explosives approval by a foreign government, small arms cartridges, and fireworks manufactured in accordance with APA Standard 87–1 (49 CFR 173.56). The approval granted by the Associate Administrator specifies packaging and other transportation provisions that must be followed by the person who offers or transports the explosive material. In addition to packaging requirements, the HMR require explosives to be marked and labeled and/or placarded to indicate the explosive hazard. Explosives shipments generally must be accompanied by shipping papers and emergency response information. In addition, Parts 174, 175, 176, and 177 of the HMR specify modal requirements for loading and unloading, blocking and bracing, stowage, segregation, and compatibility.

Security plans. In accordance with Subpart I of Part 172 of the HMR, persons who offer for transportation and persons who transport certain hazardous materials for transportation in commerce, including shipments of explosives for which placarding is required under the HMR, must develop and implement security plans. A security plan must include an assessment of possible transportation security risks for the covered shipments and appropriate measures to address the identified risks. At a minimum, a security plan must include measures to prevent unauthorized access to shipments and to address personnel and en route security. The en route security element of the plan must include measures to address the security risks of the shipment while it is moving from its origin to its destination, including shipments stored incidental to movement. Thus, a facility at which a shipment subject to the security plan requirements is stored during transportation must itself be covered by a security plan. The HMR requirement for a security plan sets forth general requirements for a security plan's components rather than a prescriptive list of specific items that must be included. The regulation establishes a performance standard that provides shippers and carriers with the flexibility necessary to develop plans that address their individual circumstances and operational environment.

V. FMCSA Requirements Applicable to Explosives Storage

Motor carriers that transport hazardous materials in commerce must comply with both the HMR and the Federal Motor Carrier Safety Regulations (FMCSRs; 49 CFR parts 390–397), administered by the FMCSA. The FMCSRs address driver qualifications; vehicle parts and accessories; driving requirements and hours of service; vehicle inspection, repair and maintenance; and driving and parking rules for the transportation of hazardous materials. The FMCSRs include requirements for storage of explosives incidental to movement. In accordance with the FMCSRs, a motor vehicle that contains Division 1.1, 1.2, or 1.3 explosives must be attended at all times, including during incidental

storage, unless the motor vehicle is located on the motor carrier's property, the shipper or consignee's property, or at a ''safe haven'' (49 CFR 397.5).

Under the FMCSRs, a ''safe haven'' is defined as an area specifically approved in writing by Federal, State, or local government authorities for the parking of unattended vehicles containing Division 1.1, 1.2, and 1.3 explosive materials (49 CFR 397.5(d)(3)). The decision as to what constitutes a safe haven is generally made by the local competent authority having jurisdiction over the area. The FMCSRs do not include requirements for safety or security measures for safe havens.

In addition, a motor vehicle containing a Division 1.1, 1.2, or 1.3 explosive may not be parked on or within 5 feet of the traveled portion of a public highway or street; on private property without the consent of the person in charge of the property; or within 300 feet of a bridge, tunnel, dwelling, or place where people work or congregate unless for brief periods when parking in such locations is unavoidable (49 CFR 397.7(a)).

VI. USCG Requirements Applicable to Explosives Storage

The United States Coast Guard (USCG) issues regulations for the safe and secure handling and storage of explosives and other dangerous cargos that are within or contiguous to waterfront facilities. The USCG's primary statutory authority is set forth in Title 46, U.S. Code, the Ports and Waterways Safety Act, 33 U.S.C. 1221, *et seq.*, and the Espionage Act of 1917, as amended by the Magnuson Act of 1950, 16 U.S.C. 1858, and most recently by the Maritime Transportation and Security Act of 2002, 46 U.S.C. 70108, in addition to Executive Orders and Coast Guard regulations implementing the statutory authorities.

USCG Safety Regulations. The USCG regulations at 33 CFR part 126 establish requirements for designated waterfront facilities. Section 126.15 requires designated waterfront facilities that handle, store, stow, load, discharge, or transport dangerous cargo to meet specific conditions. The term ''dangerous cargo'' is defined in § 126.3; it includes all of the hazardous materials subject to the HMR except for those subject to regulation only when transported by air. The conditions for designated waterfront facilities include:

1. Fire extinguishing equipment, such as automatic sprinklers, hydrants, hose connections, and firefighting water supplies must be available and maintained in adequate quantities and locations. Fire extinguishing equipment must meet State and local laws. In the absence of applicable State and local laws, fire extinguishing equipment must meet NFPA 10, 13, 14, and 307. 33 CFR 126.15(a)(1).

2. Hydrants, standpipes, hose stations, fire extinguishers, and fire alarm boxes must be conspicuously marked and readily accessible according to NFPA 10, 13, 14, and 307. 33 CFR 126.15(a)(2).

3. Warning signs must be constructed and installed according to NFPA 307, chapter 7–8.7. 33 CFR 126.15(a)(3).

4. If the facility transfers dangerous cargo between sunset and sunrise, it must have outdoor lighting that adequately illuminates the transfer work area. The lighting must be installed and maintained according to NFPA 70 and must be located or shielded so that it cannot be mistaken for an aid to navigation and does not interfere with navigation on waterways. 33 CFR 126.15(a)(4).

5. If the facility conducts cargo operations involving foreign-flag vessels, the facility must have an international shore connection meeting ASTM F–1121. 33 CFR 126.15(a)(5).

6. Whenever dangerous cargo is transferred or stored on the facility, access to the facility must be limited to authorized personnel including: persons working on the facility or vessel; authorized delivery and service personnel; Coast Guard and other Federal, State, and local officials; local emergency personnel; and other persons authorized by the owner or operator of the facility. 33 CFR 126.15(a)(6).

7. Guards must be stationed, or equivalent controls acceptable to the COTP must be used, to deter and detect unlawful entrance; to detect and report fire hazards, fires, and releases of dangerous cargoes and hazardous materials; to check the readiness of protective equipment; and to report other emergency situations at the facility. 33 CFR 126.15(a)(7).

8. Coast Guard personnel must be allowed to enter the facility to conduct inspections or board vessels moored at the facility. 33 CFR 126.15(a)(8).

9. When dangerous cargo is being transferred or stored on the facility, material handling equipment, trucks, and other motor vehicles operated by internal combustion engines must meet the requirements of NFPA 307, chapter 9. 33 CFR 126.15(a)(9).

10. Smoking is allowed on the facility where permitted under State or local law. Signs must be posted marking authorized smoking areas. ''No Smoking'' signs must be conspicuously posted elsewhere on the facility. 33 CFR 126.15(a)(10).

11. All rubbish, debris, and waste materials must be placed in adequate receptacles. 33 CFR 126.15(a)(11).

12. The COTP may determine that any equipment, material, or standard is not reasonably adequate under the circumstances. If so, the COTP informs the owner or operator in writing and provides an opportunity for the owner or operator to have the deficiency corrected. 33 CFR 126.15(a)(12).

13. When dangerous cargo is not in transport units, all cargo, freight, merchandise, and other items or material on the facility must be arranged to provide access for firefighting and clearance for fire prevention according to NFPA 307, chapter 8–5. 33 CFR 126.15(b)(1).

14. When dangerous cargo is not in transport units, the facility must have and maintain, in adequate quantities and locations, portable fire extinguishers that meet the requirements of NFPA 10. These extinguishers must be inspected and maintained in accordance with NFPA 10. 33 CFR 126.15(b)(2).

15. When dangerous cargo is not in transport units, all new electrical equipment and wiring installed on the facility must be of the same type and installed as specified under NFPA 70. All defective or dangerous electrical equipment and wiring must be promptly repaired, replaced, or permanently disconnected. 33 CFR 126.15(b)(3).

16. When dangerous cargo is not in transport units, all open fires and open-flame lamps are prohibited on the facility. Heating equipment must meet NFPA 307, chapter 9–4. 33 CFR 126.15(b)(4).

17. When dangerous cargo is not in transport units, hazardous material(s) used in the operation or maintenance of the facility may be stored only in amounts necessary for normal operating conditions. These materials must be stored in compartments that are remote from combustible material; constructed to provide safe storage; and kept clean and free of scrap materials, empty containers, soiled wiping rags, waste, and other debris. Flammable liquids must be stored according to NFPA 30, chapter 4. 33 CFR 126.15(b)(5).

18. When dangerous cargo is in transport units, terminal yards must conform to the standards in NFPA 307, chapter 5. 33 CFR 126.15(c)(1).

19. When dangerous cargo is in transport units, containers packed with dangerous cargo that are vertically stacked must be stacked no more than four high. 33 CFR 126.15(c)(2).

A general permit for handling, storing, stowing, loading, discharging or transporting dangerous cargo (other than

designated dangerous cargo) is granted by regulation to those waterfront facilities that comply with these conditions (33 CFR 126.27). The Captain of the Port is authorized to terminate or suspend the general permit for a facility whenever he deems that the security or safety of the port or vessels or facility requires it (33 CFR 126.31). Division 1.1 and 1.2 explosive materials, further identified as ''designated dangerous cargos,'' may only be handled, loaded, discharged, or transported at waterfront facilities authorized by a permit issued by the Captain of the Port (33 CFR 126.17). These Division 1.1 and 1.2 explosive materials and certain other high-hazard materials may only be handled at a ''facility of a particular hazard,'' which must meet additional conditions for warning alarms (33 CFR 126.16(b)).

Anchorage Regulations. Another area of Coast Guard regulations that is related to the topic of storage of Class 1 explosive materials in transportation is the Anchorage Regulations set forth in 33 CFR part 110. In particular, Subpart B of Part 110 prescribes permitted explosives anchorage grounds for certain ports and places in the United States as well as conditions that may pertain to explosives laden vessels using those anchorage areas.

USCG Security Requirements. On October 22, 2003 the United States Coast Guard published six final maritime security rules (68 FR 60448) applicable to certain vessels and facilities. The rules establish regulations for domestic maritime security that are based on the international maritime security standards in the International Convention for Safety of Life at Sea, 1974, (SOLAS) and the new International Ship and Port Facility Security Code (ISPS Code). An important objective of the ISPS Code is to ensure that countries adopt compatible requirements so that a vessel's compliance with one country's standards does not prevent it from meeting the standards of another country.

The Coast Guard's final rules require owners and operators of certain classes of vessels and facilities to perform security assessments, develop security plans, and implement security measures and procedures to address the risk or mitigate the potential results of an act that results in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area (33 CFR parts 104 and 105, respectively). These requirements apply to about 10,000 vessels and about 5,000 facilities, including facilities that handle hazardous material. Foreign and domestic commercial and cargo vessels as well as barges transporting petroleum, other hazardous liquids, and certain other dangerous cargoes in bulk are covered by these rules. Vessel security plans must include measures for access control, restricted areas, handling cargo, delivery of vessel stores and bunkering, and monitoring. Security measures for each activity must be scaled to provide for increased levels of security at increased threat levels.

For purposes of the USCG regulations, a ''facility'' is any structure or facility of any kind located in, on, under, or adjacent to any waters of the United States and used by a public or private entity, including any contiguous or adjoining property under common ownership or operation (33 CFR 101.105). Facility security plans must include measures for access control, restricted areas, handling cargo, delivery of vessel stores and bunkering, and monitoring (33 CFR 105.405). Security measures for each activity must be scaled to provide for increased levels of security at increased threat levels (33 CFR 105.230). Some additional security measures are prescribed for facilities that handle ''certain dangerous cargoes'' including Division 1.1, 1.2, and 1.5D explosives (33 CFR 105.295).

In addition, the October 22, 2003 final rules: (1) Establish USCG Captains of the Ports as Federal Maritime Security Coordinators (33 CFR 103.200); (2) require the establishment of Area Maritime Security Committees (33 CFR 103.300); and (3) mandate the development and implementation of Area Maritime Security Plans to address security of the infrastructure and operations of a port (33 CFR 103.500). The Area Maritime Security Plan is primarily a communication and coordination document. Core elements of the Area Maritime Security Plan include, but are not limited to: (1) Details of operational and physical measures that must be in place at all threat levels (33 CFR 103.505(a)); (2) expected timeframes for responding to security threats and changes to threat levels (33 CFR 103.505(g)); (3) communications procedures (33 CFR 103.505(q)); (4) measures to enhance the security of vessels, facilities, and operations that are not covered by other security plan regulations or requirements (33 CFR 103.505(n)); (5) measures to protect the plan and related information (33 CFR 103.505(m)); (6) periodic review, audit, and updating procedures (33 CFR 103.505(j)); and (7) procedures for reporting security incidents (33 CFR 103.505(k)).

VII. ATF Regulations

Congress enacted Title XI of the Organized Crime Control Act of 1970 to protect interstate and foreign commerce against interference and interruption by reducing the hazard to persons and property arising from misuse and unsafe or insecure storage of explosive materials. Chapter 40 of the 1970 Act is entitled Importation, Manufacture, Distribution and Storage of Explosive Materials. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) U.S. Department of Justice has been delegated the authority to enforce Chapter 40. ATF has promulgated regulations contained in 27 CFR part 555 to implement its provisions.

ATF regulations contain detailed provisions governing the storage of explosive materials. These storage regulations address numerous issues including: (1) A requirement to inspect storage facilities at least every seven days (27 CFR 555.204); (2) where magazines may be located (27 CFR 555.206); (3) construction requirements of magazines, including locking mechanisms (27 CFR 555.207–211); (4) quantity restrictions and restrictions on the items that may be stored together (27 CFR 555.213); and (5) distance restrictions (27 CFR 555.218–224). In addition, all theft or loss of explosive materials by licensees, permittees, carriers of explosives materials, and other persons must be reported to ATF within 24 hours of discovery (27 CFR 555.30).

Below we provide information on the explosives storage regulations found in 27 CFR part 555, subpart K. For a thorough understanding of the regulatory requirements, we recommend you review the complete ATF regulations.

1. Explosive materials fall into one of three classes—high explosives (i.e., Dynamite, Flash Powder, Bulk Salutes), low explosives (i.e., Black Powder, safety fuses, igniters, igniter cords, fuse lighters, and display fireworks), or blasting agents (i.e., Ammonium nitrate fuel oil and certain water gels). 27 CFR 555.202.

2. There are 5 types of explosives magazines. Type 1 magazines are permanent magazines for the storage of high explosives and all other classes of explosive materials. Type 2 magazines are mobile and portable indoor and outdoor magazines for the storage of high explosives and all other classes of explosive materials. Type 3 magazines are portable outdoor magazines for the temporary storage of high explosives while attended (for example, a ''daybox'') and all other classes of

explosives materials. Type 4 magazines are magazines for the storage of low explosives. Blasting agents and detonators that will not mass detonate may be stored in type 4 magazines. Type 5 magazines are for the storage of blasting agents. Type 4 and 5 magazines can be in the form of a trailer or semi-trailer; however, they must be immobilized by removing the wheels or installing a kingpin locking device or other ATF approved method if they are left unattended. 27 CFR 555.203, 207–211.

3. The regulations specify magazine construction requirements including, but not limited to, walls, floors, foundations, roofs, bullet-resistant ceilings, doors, locks, and ventilation systems. 27 CFR 555.207–211.

4. Any person who stores explosive materials must notify the authority having jurisdiction for fire and safety in the locality where the explosive materials are being stored of the type, magazine capacity, and location of each site where such explosives are being stored. 27 CFR 555.201(f).

5. Smoking, matches, open flames, and spark producing devices are not permitted in any magazine, within 50 feet of any outdoor magazine, or within any room containing an indoor magazine. 27 CFR 555.212.

6. Magazines must be clean, dry, and free of grit, paper, empty packaging and containers, and rubbish. Cleaning utensils, which may be left in the magazines, cannot have spark-producing metal parts. The surrounding area must be kept clear of rubbish, brush, dry grass, or trees for 25 feet in all directions. 27 CFR 555.215.

7. Lighting in any explosives storage magazine must comply with the National Electrical Code (NFPA 70–81). Battery-activated safety lights may be used in explosive storage magazines. 27 CFR 555.217.

8. Explosive materials must be stored in accordance with the table of distances contained in the ATF regulations. 27 CFR 555.218–224.

VIII. NFPA 498, Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives

The National Fire Protection Association (NFPA) has published standards for safe havens under NFPA 498, Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives. NFPA 498 was specifically designed to handle cargoes of explosive materials in a transportation setting. The standard is widely used and accepted by the explosives transportation industry and by Federal, State, and local governments. It addresses fire, theft, and explosion hazards of explosive materials in parked vehicles at safe havens and interchange lots. Detailed information on the provisions contained in NFPA 498 is provided below:

1. The term ''explosives interchange lot'' is defined as a specially designed safe area of a motor vehicle terminal where less-than-truckload lots of explosives can be held for transfer from one vehicle to another for continuance in transportation. The term ''explosives motor vehicle facility'' is defined as a designated area where motor vehicles transporting explosives can be parked, pending further movement in transportation. Such a facility can be a safe haven or interchange lot and can include maintenance shops, driver rest services, or any combination of these conveniences. The term ''safe haven'' is defined as a secured area specifically designated and approved in writing by local, State, or Federal governmental authorities for the parking of vehicles containing Division 1.1, Division 1.2, or Division 1.3 materials. NFPA 498 section 1–3.

2. A safe haven must be located in a secured area that is no closer than 300 ft (91.5m) to a bridge, tunnel, dwelling, building, or place where people work, congregate, or assemble. The perimeter of the safe haven must be cleared of weeds, underbrush, vegetation, or other combustible materials for a distance of 25 ft (7.6 m). The safe haven must be protected from trespassers by warning signs, gates, and patrols. NFPA 498 sections 2–1.1, 2–1.2, 2–1.3, and 2–1.4.

3. When vehicles carrying Division 1.1, Division 1.2, or Division 1.3 materials are parked in a safe haven, the entrance to the safe haven must be marked with this warning sign:

DANGER NO SMOKING

NEVER FIGHT EXPLOSIVE FIRES

VEHICLES ON THIS SITE CONTAIN EXPLOSIVES

CALL _____

The sign must be weatherproof with reflective printing, and the letters must be at least 2 in. high. NFPA 498 section 2–1.4.

4. The shipping paper for all 1.1, 1.2, and 1.3 materials and corresponding emergency response information must be presented to the guard patrolling the safe haven. NFPA 498 section 2–1.5.1.

5. Vehicles will be inspected before they enter the safe haven. Any safety (*e.g.*, hot tires, hot wheel bearings, hot brakes, any accumulation of oil or grease, any defects in the electrical system, or any apparent physical damage to the vehicle that could cause or contribute to a fire) or security threats that are identified by the inspector must be corrected before the vehicle is permitted to enter the safe haven. NFPA 498 section 2–2.1.

6. Trailers are to be positioned in the safe haven with spacing of not less than 5 ft (1.5 m) maintained in all directions between parked trailers. Additionally, trailers may not be parked in a manner that would require their movement to move another vehicle. Immediately upon correctly positioning a loaded trailer the tractor must be disconnected and removed from the safe haven. NFPA 498 sections 2–2.2 and 2–2.3.

7. The explosives transport vehicles, including trailers, in the interchange lot must be maintained in the same condition as is required for highway transportation, including placarding. NFPA 498 section 2–2.4.

8. Where a self-propelled vehicle loaded with explosives is parked in a safe haven it must be parked at least 25 ft (7.6 m) from any other vehicles containing explosives, and must be in operable condition, properly placarded, and in a position and condition where it can be moved easily in case of necessity or emergency. NFPA 498 section 2–2.5.

9. No explosives may be transferred from one vehicle to another in a safe haven except in case of necessity or emergency. NFPA 498 section 2–2.6.

10. No vehicle transporting other hazardous materials may be parked in a safe haven unless the materials being transported are compatible with explosives. NFPA 498 section 2–2.7.

11. Except for minor repairs, no repair work involving cutting or welding, operation of the vehicle engine, or the electrical wiring may be performed on any vehicle parked in a safe haven that is carrying explosives. NFPA 498 section 2–3.1.

12. Except for firearms carried by law enforcement and security personnel where specifically authorized by the authority having jurisdiction, smoking, matches, open flames, spark-producing devices, and firearms are not permitted inside or within 50 ft (15.3 m) of the safe haven, loading dock, or interchange lot. NFPA 498 section 2–3.2.

13. When any vehicle transporting explosives is parked in a safe haven, at least one trained person, 21 years of age or older, must be assigned to patrol the safe haven on a dedicated basis. Safe havens located on explosives manufacturing facilities or at motor vehicle terminals must employ other means of acceptable security such as existing plant or terminal protection systems or electronic surveillance devices. NFPA 498 section 2–4.1.

14. Where an area at the loading dock is designated for the temporary holding of explosives in a trailer, it must not be located within 50 ft (15.3 m) of a fire hazard such as an area where smoking is permitted, where hot work is being done, or where combustible or flammable materials are present. NFPA 498 section 3–1.3.

15. Explosives delivered to the interchange lot by a connecting carrier must be retained in the trailer at a designated section of the loading dock, or the trailer must be parked in an isolated area of the interchange lot, or the explosives must be placed in the holding facility. NFPA 498 section 3–2.2.

16. Explosives may not be retained on the lot, either in a trailer or holding facility, for a period longer than necessary, but in no case for more than 100 hours. NFPA 498 section 3–2.4.

IX. Institute of Makers of Explosives Safety Library Publication No. 27, ''Security in Manufacturing, Transportation, Storage and Use of Commercial Explosives''

In January of 2005 the Institute of Makers of Explosives (IME) published recommended guidelines (SLP–27) for the manufacture, sale and distribution, transportation, storage, and use of Class 1 materials. SLP–27 establishes a best practices guideline for the transportation of explosives by highway and vessel. Specifically, it provides detailed transportation information on security plans, training, loading, and unloading requirements as they apply to shipments of explosives transported by highway or vessel. Following is a list of the significant transportation related requirements contained in the IME publication, ''Security in Manufacturing, Transportation, Storage and Use of Commercial Explosives.''

Transportation by Highway or Vessel

1. Those persons transporting explosives must be properly trained and shipments must comply with DOT security plan requirements, as applicable. SLP–27 section 3.1.

2. Loading of stored materials or materials that are manufactured and immediately transported should be done as conspicuously as possible and without undue delay. SLP–27 section 3.2.

3. Unloading and placement of explosives in proper storage should be completed upon arrival at the final destination. SLP–27 section 3.3.

Transportation by Highway

1. For international shipments carriers should participate in the U.S. Customs and Boarder Protection Free and Secure Trade (FAST) program. In addition, carriers should plan to avoid any unnecessary delays at border crossings. SLP–27 section 3.4.1.

2. Cross docking and trailer transfers should be done in secure areas. SLP–27 section 3.4.1.2.

3. Safe havens should be operated in accordance with the current edition of NFPA 498 and be reviewed by each carrier's safety department prior to use. SLP–27 section 3.4.2.

4. If at all possible congested areas and rush hour traffic should be avoided. SLP–27 section 3.4.3.

5. Parking or stopping of the vehicle should be kept to a minimum, but if necessary must conform to the requirements in 49 CFR part 397. SLP–27 section 3.4.4.

6. For Division 1.1, 1.2, and 1.3 materials, a trained and authorized person that is capable of moving the vehicle must be in attendance at all times. SLP–27 section 3.4.5.

7. Cargo compartments should be locked and sealed with the corresponding seal numbers recorded on the shipping paper. SLP–27 section 3.4.6.

8. A route plan, that includes all stops, must be prepared for Division 1.1, 1.2, and 1.3 materials in accordance with 49 CFR 397.67(d). SLP–27 section 3.4.7.

9. A dual driver program should be used for certain materials if the shipment cannot be completed within a single driver's hours-of-service. SLP–27 section 3.4.8.

10. Only vehicles capable of two way communication or those equipped with a two-way GPS system should be used for the transportation of Class 1 materials. In addition, shipments that are longer than 11 hours in duration should be monitored by GPS or by an equivalent tracking system. SLP–27 section 3.1.9.

11. A battery disconnect switch or steering wheel lock should be installed on vehicles transporting Class 1 materials. SLP–27 section 3.4.10.

12. If mechanical problems occur the driver should contact dispatch, proceed to the safest possible location, and always stay with the vehicle. SLP–27 section 3.4.11.

13. The driver should not stop to render aid to others. SLP–27 section 3.4.11.3.

14. If an incident occurs the driver should contact dispatch and State law enforcement officials immediately. SLP–27 section 3.4.11.2.

Transportation by Vessel

1. Division 1.1, 1.2, and 1.3 materials should be staged in a safe haven or area designated by the Captain of the Port (COTP). SLP–27 section 3.5.1.

2. A qualified individual should serve as the Responsible Safety and Security Individual (RSSI). The RSSI should be present when Division 1.1, 1.2, or 1.3 materials are handled at the berth. SLP–27 section 3.5.2.

3. Emergency response plans should be consistent with those described in 29 CFR 1910.120(q) and 33 CFR. SLP–27 section 3.5.3.1.

4. The facility operator should develop an emergency response plan for the facility, a copy of which should be distributed to the RSSI, port authority, regulatory authority, and master of the ship. In addition, the facility operator should notify the local authorities of the net explosive quantity at least 24-hours in advance of the expected handling dates. SLP–27 section 3.5.3.4.

5. The vessel operator should maintain the vessel in a manner that would allow for immediate departure, should the need arise. SLP–27 section 3.5.3.5.

6. The emergency response plans for the ship and waterfront facility should be consistent. SLP–27 section 3.5.3.6.

7. The RSSI should ensure that the shipping papers accurately indicate the total amount of Class 1 materials on the vessel. SLP–27 section 3.5.6.

8. For loading and unloading the RSSI should have a list of each container or trailer and confirm that each is on the list. SLP–27 sections 3.5.7.1 and 3.5.8.1.

9. Loading and unloading should be done in a manner that does not cause undue delay and minimizes the amount of time explosives are in the berth. SLP–27 sections 3.5.7.4 and 3.5.8.5.

10. The facility operator should inspect packages of Class 1 material for evidence of unauthorized entry. If such evidence exists the facility operator should contact the RSSI. SLP–27 section 3.5.8.6.

11. Only the motor vehicles required to load or unload the explosives are allowed in the berth or inside the warehouse. The drivers should stay in the immediate vicinity of their vehicles. Division 1.1, 1.2, and 1.3 materials should be attended at all times. SLP–27 section 3.5.9.

12. To maintain safety and security Division 1.1, 1.2, and 1.3 shipments that involve the use of multiple shippers and carriers should be planned in advance and coordinated with facility operator. SLP–27 section 3.5.11.

13. The RSSI should maintain contact with the U.S. Coast Guard, master of the

ship and facility operator, and the motor carrier when Class 1 materials are being handled. SLP–27 section 3.5.12.

14. When Class 1 materials are in the berth only the personnel needed to do the job in a safe and secure manner should be present. SLP–27 section 3.5.13.3.

15. Waterfront facilities that handle explosives should meet the standards for interchange lots found in NFPA 498. SLP–27 section 3.5.13.4.

X. SDDC Freight Traffic Rules Publication No. 1C

The Department of Defense (DOD) has published standards for non-government safe havens used for commercial shipments of DOD munitions made under the provisions of Surface Deployment and Distribution Command (SDDC) Freight Traffic Rules Publication No. 1C (MFTRP No. 1C). The rules apply to DOD shipments of explosives. Following is a list of key requirements in MFTRP No. 1C that apply to explosives stored during transportation:

1. The rules outlined in Section 4, Part A apply to explosives classified as Division 1.1, 1.2, 1.3, and 1.4. MFTRP No. 1C—Item 300.

2. When a shipment arrives at an installation during other than consignee designated hours a temporary holding area will be provided for shipments. The installation will provide safety and security protection as outlined in Part II, Chapter 205 of the Defense Transportation Regulation (DTR). MFTRP No. 1C—Item 305.

3. Secure holding in the event of emergencies, such as when shipments of Class 1, Division 1.1, 1.2, 1.3, or 1.4 (A, B, or C) materials are endangered by civil disturbance or natural disaster or prevented from proceeding to destinations by circumstances beyond the control of the carrier. Secure holding requirements:

a. The carrier will notify the consignor and consignee of the delay.

b. Shipments must be removed from secure holding as soon as the shipment is no longer endangered.

c. Vehicles in a secure holding will be parked inside an appropriate security area (fenced area).

d. Installation security will be extended when required to provide reasonable protection.

e. Shipping documents will be examined to prevent surreptitious entry of any unauthorized shipments into the installation.

f. Installation personnel will determine if carrier personnel will remain with the vehicle for constant surveillance.

g. Inspection provisions will be applied.

h. For parking lots and rail yards the compatibility restrictions and quantity-distance requirements of DOD Manual 6055.9 STD must be applied. MFTRP No. 1C—Item 310.

4. Terminal Security Standards. The carrier must maintain a comprehensive security plan including facility security. Diagram of the terminal that shows controlled and restricted areas, security force locations, surveillance equipment locations, and implementation procedures for the plan. Included in the plan are the following:

a. Access Control.

b. Guard Force standards, qualification, training, equipment.

c. Fencing.

d. Lighting.

e. Barriers (*e.g.*, jersey concrete barriers, etc.).

f. Key and lock control.

g. Emergency communications.

h. Emergency power.

i. Emergency response forces.

j. Procedures for response to terrorism/criminal threats or other emergencies.

Small arms, ammunition and explosives must be afforded double barrier protection. General terminal areas will be designated ''controlled areas'' and surrounded by a perimeter fence to limit access. Secure trailer and/or drom parking areas will be designated ''restricted areas'' and will be located within the established controlled area. The restricted area will be located in a revetment area protected by an earth-graded berm a minimum of 20 feet in height. The restricted area will also be protected by its own perimeter fence located on top of the earth-graded berm. The entrance into the restricted area will be constructed in such a way that it prevents a straight drive/view into the parking area. Since the guards do not have direct unobstructed view of the entire area, the restricted area will have a color Closed Circuit Television (CCTV) system to provide enhanced security over the parking area. Administrative buildings that are located within the terminal, maintenance facilities and terminal guard stations will be included within the controlled area and provided CCTV coverage. Structures used by security forces will be of substantial construction (*i.e.* masonry or shielded) to mitigate any threat from small arms fire. Warning signs must be posted at each entry point and along the terminal perimeter where they can be easily seen and understood by anyone approaching the terminal facility. In areas where English is one of two or more languages commonly spoken, warning signs will contain the local language in addition to English. The wording of the signs will denote warning of a restricted area. Warning signs will be posted at intervals not to exceed 100 feet. MFTRP No. 1C—Item 312.

5. These provisions are very similar to the safe haven requirements found in NFPA 498. They provide the minimum required safety standards for commercial carrier terminals to handle Division 1 ammunition and explosives. This Item requires carriers to have a comprehensive site plan. The terminal must be approved by a State or local HAZMAT approving authority. The terminal must have a clear zone of 20 feet inside and 20 feet outside of the perimeter that is clear of weeds, brush, vegetation or other combustible material. No smoking signs that include the emergency response number to call in the event of a fire. Terminal employees must be informed of the hazard classification of explosives and the danger posed to them. Vehicle that can move explosive trailers must be kept in terminal at all times. Fire protection equipment must be provided.

Vehicles must undergo a safety inspection. Spacing of 5 feet is required between parked trailers. The trailers must be maintained in highway condition. No vehicle transporting other hazardous materials, including commercial explosives, must be parked in a terminal unless the materials being transported are compatible with explosives. No repair work, no smoking or spark producing devices, and no electrical lines closer then the length of the lines. MFTRP No. 1C—Item 314.

XI. Comments

Shippers and carriers of explosives and other high-hazard materials are urged to carefully consider the implications of incorporating these governmental and industry standards into the HMR. We urge you to consider the effects on transportation safety and security at explosives storage facilities and the effects on the intermodal transportation of explosives. Commenters should be aware that the information and data generated in response to this ANPRM could result in a notice of proposed rulemaking that would apply more generally to shippers and carriers of explosives and other high-hazard materials. We invite commenters to submit data and information on:

1. The effectiveness of different types of safety and security measures.

2. The costs involved with implementing specific safety and security measures.

3. The related safety or productivity benefits that would help offset costs.

4. The effect that implementing specific safety and security measures will have on the human environment.

5. Ways or incentives that may be appropriate to consider in promoting adoption of safety and security measures in conjunction with or separate from general regulatory requirements.

6. The overall safety and security of safe havens for temporary storage during transportation, including suggestions for improving security at safe havens or alternatives to the use of safe havens.

7. The conditions and circumstances under which temporary storage in safe havens should be required.

8. Whether specific safety and security measures should be limited to certain explosives and, if so, which explosives might warrant specific security or safety measures (i.e., to which explosives in Division 1 through Division 6 and in what quantity should these measures apply).

9. Whether enhanced safety or security requirements for storage during transportation should also apply to other types of hazardous materials (e.g., materials toxic by inhalation) and, if so, which hazardous materials.

10. Whether enhanced safety or security requirements for storage during transportation should apply to transportation by all modes or only certain specified forms of transportation (e.g., railroad, highway, etc.).

11. Whether we should consider aggregation limits on the storage of explosives and other high-hazard materials at a single facility during transportation.

12. Whether we should consider limits on the time that a shipment of explosives or other high-hazard materials could be stored during transportation.

13. Whether shipping documents should indicate that a shipment will be stored at a safe haven or other facility during transportation.

14. Whether the regulations and standards outlined in this ANPRM can be transformed into multimodal storage requirements for the transportation of explosives.

15. Whether there are additional standards, other than those outlined above, that we should take into consideration.

16. Whether development of an industry or consensus standard or regulation should be pursued in this area.

We are particularly interested in comments from explosives shippers and carriers and State governments regarding their experiences with safe havens. We would like to know if State and local governments have concerns regarding the use of safe havens in and around their communities, including possible economic impacts of terrorist activities or accidents. We would like information on the benefits realized, the costs incurred, any technical or practical difficulties encountered, and other real-world experience gained from transporting or regulating the transportation of explosives as it relates to safe havens.

XII. Regulatory Notices

A. Executive Order 12866: Regulatory Planning and Review

Executive Order 12866 requires agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' We therefore request comments, including specific data if possible, concerning the costs and benefits that may be associated with adoption of specific security and storage requirements for carriers that include explosives storage as part of their transportation cycle.

B. Executive Order 13132: Federalism

Executive Order 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may have a substantial, direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. We invite State and local governments with an interest in this rulemaking to comment on the effect that adoption of specific storage and security requirements for carriers that transport and store explosives in commerce may have on State or local safety or environmental protection programs.

C. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 requires agencies to assure meaningful and timely input from Indian tribal government representatives in the development of rules that ''significantly or uniquely affect'' Indian communities and that impose ''substantial and direct compliance costs'' on such communities. We invite Indian tribal governments to provide comments as to the effect that adoption of specific storage and security requirements for explosives that are transported in commerce may have on Indian communities.

D. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), we must consider whether a proposed rule would have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. If your business or organization is a small entity and if adoption of specific storage requirements applicable to explosvies transported in commerce could have a significant economic impact on your operations, please submit a comment to explain how and to what extent your business or organization could be affected.

E. National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to consider the consequences of major Federal actions and that they prepare a detailed statement on actions significantly affecting the quality of the human environment. Interested parties are invited to address the potential environmental impacts of regulations applicable to the storage of explosives transported in commerce. We are particularly interested in comments about safety and security measures that would provide greater benefit to the human environment, or on alternative actions the agency could take that would provide beneficial impacts.

F. Statutory/Legal Authority for This Rulemaking

This rulemaking is issued under authority of the Federal hazardous materials transportation law (49 U.S.C. 5101 *et seq.*), which authorizes the Secretary of Transportation to prescribe regulations for the safe transportation, including security, of hazardous materials in interstate, intrastate, and foreign commerce.

G. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking is considered a significant regulatory action under section 3(f) of Executive Order 12866 and the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11032). This ANPRM was reviewed by the Office of Management and Budget.

E.O. 12866 requires agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' We therefore request comments, including specific data if possible, concerning the costs and benefits of incorporating requirements for the storage of explosives and other high-hazard materials during transportation into the HMR.

H. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

I. Privacy Act

Anyone is able to search the electronic form for all comments received into any of our dockets by the name of the individual submitting the comments (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) of you may visit *http://dms.dot.gov*.

Issued in Washington, DC, on November 10, 2005, under authority delegated in 49 CFR part 106.

Robert McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 05–22751 Filed 11–15–05; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 051028280–5280–01; I.D. 102105A]

RIN 0648–AT11

Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Amendment 11

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 11 to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) which would change the framework for the annual apportionment of the Pacific sardine harvest guideline along the U.S. Pacific coast. The purpose of the proposed rule is to achieve optimal utilization of the Pacific sardine resource and equitable allocation of the harvest opportunity for Pacific sardine.

DATES: Comments must be received by December 16, 2005.

ADDRESSES: You may submit comments on this proposed rule identified by I.D. 102105A by any of the following methods:

- E-mail: *0648–AT11.SWR@noaa.gov*. Include I.D. 102105A in the subject line of the message.
- Federal e-Rulemaking portal:*http://www.regulations.gov* Follow the instruction for submitting comments.
- Fax: (562) 980–4047.
- Mail: Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, California 90802.

For copies of Amendment 11 entitled *Allocation of the Pacific Sardine Harvest Guideline Amendment 11 to the Coastal Pelagic Species fishery Management Plan*, and the accompanying environmental assessment/initial regulatory flexibility analysis/regulatory impact review (EA/IRFA/RIR) may be obtained at the address above.

FOR FURTHER INFORMATION CONTACT: Joshua Lindsay, Southwest Region, NMFS, (562) 980–4034.

SUPPLEMENTARY INFORMATION: Pacific sardines are managed pursuant to the CPS FMP, which was implemented by regulations published at 64 FR 69893, December 15, 1999. According to the original allocation scheme in the CPS FMP, the annual harvest guideline for Pacific sardine was allocated two-thirds south of Pt. Piedras Blancas, California (35° 40′ N. lat.) (a point south of Monterey, California, which included the fishery in Southern California) and one-third north (included fisheries in Monterey, California, Oregon, and Washington), beginning annually on January 1. On October 1, the harvest guideline remaining in each subarea was added together, then divided equally between the two areas.

In 2002, the northern allocation was reached before October 1, which required closure of the fishery while significant amounts of Pacific sardine remained unharvested in the south (67 FR 58733, September 18, 2002). Rough ocean conditions in the Pacific Northwest beginning in October makes fishing for Pacific sardine with a purse seine gear difficult or impossible. Thus, even if the harvest of Pacific sardine were provided to fisheries in the Pacific Northwest after October 1, it would not likely be obtained because the rough ocean conditions along the coast during that time would preclude fishing for Pacific sardine. Because the Pacific sardine fisheries off Oregon and Washington would be virtually over by October, the Pacific Fishery Management Council (Council) requested an emergency rule to make the required allocation in 2002 earlier than October 1, to avoid losses in jobs and revenue. An emergency rule was implemented on September 26, 2002 (67 FR 60601), that reallocated the harvest guideline and reopened the fishery.

The CPS FMP established a limited entry fishery south of Pt. Arena, California (39° N. lat.), which was a point north of San Francisco, California. An open access fishery existed north of Pt. Arena, California made up of Pacific sardine fisheries off Northern California, Oregon, and Washington.

When the CPS FMP was implemented no Pacific sardine fishery in Oregon and Washington existed. The Council adopted the allocation procedure included in the CPS FMP to protect the Monterey, California fishery (in the northern subarea or Subarea A) from the possibility of the fishery in Southern California (in the southern subarea or Subarea B) catching the entire harvest guideline before Pacific sardine became available in Monterey. As a result of the FMP's allocation procedure, a fishing pattern developed whereby Pacific sardine was caught by the Southern California fleet at the beginning of the year, by the Pacific Northwest fleet in the summer, and by the Monterey fleet in the fall. The fishing pattern led to the possibility that the fishery in the northern subarea might preempt the fishery in the southern subarea. If Pacific sardine remained unharvested in either subarea following the reallocation on October 1, the FMP did not provide a procedure to make further reallocations to any subarea to increase the likelihood of achieving optimum yield (OY) in the Pacific sardine fishery.

The Council recognized that a process with more flexibility for making allocation decisions was needed. Therefore, the Council considered amending the framework process for implementing the CPS FMP found at 50

CFR 660.517. At its November 2002 meeting in Foster City, CA, the Council adopted a set of management alternatives to address the allocation issue and directed its Coastal Pelagic Species Management Team (Team) to analyze these alternatives. The primary goal was to avoid closing any sector of the Pacific sardine fishery while a portion of the harvest guideline remain unharvested.

At its meeting in Vancouver, Washington, on April 10, 2003, the Council received reports from the CPS Advisory Subpanel (Subpanel), Team, and public comments, and adopted an interim allocation framework that: (1) changed the definition of subarea A and subarea B by moving the geographic boundary between the two areas from Pt. Piedras Blancas at 35° 40′ 00″ N. lat. to Pt. Arena at 39° 00′ 00″ N. lat., (2) moved the date when Pacific sardine that remain unharvested are reallocated to Subarea A and Subarea B from October 1 to September 1, (3) changed the percentage of the unharvested Pacific sardine that is reallocated to Subarea A and Subarea B from 50 percent to both subareas to 20 percent to Subarea A and 80 percent to Subarea B, and (4) reallocated all unharvested Pacific sardine that remained on December 1 coastwide. This procedure was proposed to be in effect for 2003 and 2004, and for 2005 if the 2005 harvest guideline is at least 90 percent of the 2003 harvest guideline.

Using the best available information, the interim allocation framework was developed to address concerns for the short-term until NMFS and the Council had sufficient time to develop a more comprehensive, longer-term allocation framework. In order to achieve optimal utilization and equitable allocation between the different sectors of the Pacific sardine fishery, the Council tasked the Subpanel to develop an initial range of allocation alternatives for a longer-term allocation framework. The Subpanel adopted a range of alternatives for the allocation of Pacific sardine at their meetings in August and September 2004. At the November 2004 meeting the Council reviewed the range of alternatives, and with some modification and additions, forwarded nine alternatives to the Team for preliminary analysis. When adopting a range of alternatives for long-term allocation in April 2005, the Council expressed an interest in having the flexibility to revisit the proposed action in the near-term as the Pacific sardine resource and the fisheries and markets that rely on it are dynamic and difficult to predict.

At the April 2005 Council meeting the Council adopted seven of the nine alternatives and sent those to the Team for further analysis. Below is a summary of the seven forwarded alternatives given to the Team for analysis including both a no action alternative and a status quo alternative. If the Council chose to take no action, the allocation framework would revert to original FMP (64 FR 69888, December 15, 1999) formula that was in place before the regulatory amendment (69 FR 8572, February 25, 2003) was implemented in 2003. Under status quo the Council would have chosen to take action to extend the interim allocation. The order of alternatives does not indicate rank or priority. All alternatives (except No Action) used Point Arena, California (39° N. lat.) as the dividing line between the allocation subareas. In order to present the alternatives in a clear and comparable fashion the descriptions bullet the fishing season, the initial allocation, and reallocations made at different points during the fishing season.

No Action: FMP Allocation Framework

The allocation subareas are divided at Point Piedras Blancas, California (35° 40′ N. lat.).

Season: January 1 – December 31

Initial allocation: On January 1, 33 percent of the harvest guideline is allocated to the Subarea A (north, which includes Monterey) and 66 percent to the Subarea B (Southern California).

Reallocation: On October 1, remaining unharvested portion of the harvest guideline is pooled and reallocated 50 percent to Subarea A (north) and 50 percent to Subarea B (south).

Status Quo: Interim Allocation Framework

Season: January 1 – December 31

Initial allocation: On January 1, 33 percent of the harvest guideline is allocated to the Subarea A (north) and 66 percent to Subarea B (south).

Reallocation: On September 1, 20 percent of the remaining unharvested portion of the harvest guideline is reallocated to the Subarea A (north) and 80 percent to Subarea B (south).

Second reallocation: On December 1, the remaining unharvested portion of the harvest guideline is reallocated coastwide.

Alternative 1: Coastwide Allocation In Two Periods

Season: January 1 – December 31

Initial allocation: On January 1, 50 percent of the harvest guideline is allocated coastwide.

Reallocation: On July 1, the remaining harvest guideline (50 percent plus any unharvested portion from the initial allocation) is allocated coastwide.

Alternative 2: Rejected by the Council

Alternative 3: Coastwide Allocation In Three Periods

Season: January 1 – December 31

Initial allocation: On January 1, 40 percent of the harvest guideline is allocated coastwide.

Reallocation: On July 1, 40 percent of the harvest guideline (plus any unharvested portion from the initial allocation) is allocated coastwide.

Second reallocation: On October 1, 20 percent of the harvest guideline (plus any unharvested portion from the first reallocation) is reallocated coastwide.

Alternative 4: Allocation Formula Depends on the Size of the Harvest Guideline

Season: January 1 – December 31

(a) The coastwide harvest guideline is greater than 100,000 mt:

Initial allocation: On January 1, 40 percent of the coastwide harvest guideline is allocated to the Subarea A (north) and 60 percent to the Subarea B (south).

Reallocation: On September 1, the remaining unharvested portion of the harvest guideline is pooled and allocated coastwide.

(b) The coastwide harvest guideline is less than 100,000 mt:

Initial allocation: On January 1, 33 percent of the coastwide harvest guideline is allocated to Subarea A (north) and 66 percent to the Subarea B (south).

Reallocation: On September 1, the remaining unharvested portion of the coastwide harvest guideline is pooled and 20 percent is allocated to Subarea A (north) and 80 percent to the Subarea B (south).

Second reallocation: On November 1, any remaining unharvested portion of the harvest guideline is again pooled and reallocated coastwide.

Alternative 5: Rejected by the Council

Alternative 6: Transfer of Unused Allocations Between Subareas

Season: January 1 – December 31

Initial allocation (for 2006 only): On January 1, 40 percent of the harvest guideline is allocated to the Subarea A (north) and 60 percent to the Subarea B (south).

Reallocation: On September 1, the remaining harvest guideline is pooled and allocated coastwide.

Transfer Rules For Computing Subsequent-Year Allocations After the

initial year (2006) these rules dictate the allocations to each subarea in each subsequent year:

Rule 1: The transfer of a portion of the harvest guideline from one subarea to the other, for the purpose of recomputing allocation percentages for the next year, occurs if the portion of a subarea's allocation remaining uncaught at the end of the year is greater than the transfer limits described in Rule 2.

Rule 2: If the harvest guideline is greater than 100,000 mt, the transfer amount will be equal to 10 percent of the coastwide harvest guideline for that year. When the coastwide harvest guideline is 100,000 mt or less, the transfer amount will be 5,000 mt.

Rule 3: The transfer amount is applied to the current-year allocation for each subarea. The resulting numerical values are then converted to percentages of the current-year coastwide harvest guideline and used to determine the initial allocation for the following year.

Rule 4: No subarea may initially be allocated more than 75 percent of the coastwide harvest guideline.

Rule 5: The September 1 coastwide reallocation always applies.

Alternative 7: Equal Reallocation

Season: January 1 – December 31

Initial allocation: On January 1, 33 percent of the harvest guideline is allocated to the Subarea A (north) and 66 percent to the Subarea B (south).

Reallocation: On September 1, remaining harvest guideline is pooled and 50 percent of the harvest guideline is allocated to the Subarea A (north) and 50 percent to the Subarea B (south).

Second Reallocation: On November 1, any remaining unharvested portion of the harvest guideline is again pooled and reallocated coastwide.

At the June 2005 Council meeting in Foster City, CA, the Council adopted a preferred option for the allocation of Pacific sardine that creates a seasonal, coastwide allocation scheme. This preferred alternative is a modified version of Alternative 3, which provides the following allocation formula for the non-tribal share of the harvest guideline:

Coastwide Allocation In Three Periods

Season: January 1 – December 31

Initial allocation: On January 1, 35 percent of the harvest guideline is allocated coastwide.

Reallocation: On July 1, 40 percent of the harvest guideline (plus any unharvested portion from the initial allocation) is allocated coastwide.

Second reallocation: On September 15, 25 percent of the harvest guideline (plus any unharvested portion from the first reallocation) is reallocated coastwide.

The Council also recommended a review of the allocation formula in 2008.

Classification

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

At this time, NMFS has not determined that Amendment 11 that this proposed rule would implement is consistent with the national standards of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

An IRFA was prepared that describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows:

A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUMMARY** and in the **SUPPLEMENTARY INFORMATION** sections of this proposed rule. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. There are no reporting, record-keeping, or other compliance requirements of the proposed rule.

Approximately 104 vessels were permitted to operate in the Pacific sardine fisheries off the U.S. West Coast in 2004; 63 vessels were permitted in the Federal CPS limited entry fishery off California (south of 39° N. lat.), while 41 vessels were permitted in Oregon and Washington's state Pacific sardine fisheries. All of these vessels would be considered small businesses under the Small Business Administration standards since the vessels do not have annual receipts in excess of $3.5 million. Therefore, NMFS does not anticipate any disproportionate economic impacts resulting between small and large vessels under the proposed action. Additionally, this proposed action is not likely to significantly affect (both positive and negative effects) these small entities. The purpose of the action is to achieve optimal utilization of the available harvest by all entities through an equitable coastwide allocation. Therefore vessels in all regions should have an equal opportunity to the resource.

The fleet as it exists in present day is not likely to change over the 2005–2009 period because vessels from California could fish in the U.S. Exclusive Economic Zone off Oregon and Washington without a respective state issued limited entry permit, but would have to land their catches in California. Given the current technology and operational aspects of the Pacific sardine fishery this would not be practicable. Therefore, NMFS believes that these 63 and 41 vessels will comprise the respective southern and northern subarea fleets in the future. Under the preferred long-term allocation alternative, Pacific sardine landings for CPS for the entire West Coast were projected to increase: (1) 19,674 mt from the status quo over the 2005–2009 period, with a corresponding increase in ex-vessel revenues of $3,076,891, under a 136,000–mt harvest guideline, and a 10 percent annual growth rate in landings for all fishery sectors over the 2005–2009 period (defined as base case); (2) no change in total landings, but an increase of $1,514,553 in ex-vessel revenues under a 72,000 mt harvest guideline, and a 10- percent annual growth rate in landings for all Pacific sardine fishery sectors over the 2005–2009 period (defined as low harvest guideline case or); and, (3) no change in total landings or in total ex-vessel revenues under a 200,000 mt harvest guideline, and a 10–percent annual growth rate in landings for all fishery sectors over the 2005–2009 period (defined as high harvest guideline case).

NMFS anticipates a 10 percent annual growth rate per year based on input from the Pacific sardine industry members as to what the Pacific sardine market could accommodate. For the preferred alternative, Pacific sardine landings in the northern subarea sardine fishery were estimated to be 28,141 mt greater than the status quo with ex-vessel revenues increasing by $3.8 million under the base case; a 34,592–mt increase in landings and an increase of $4.7 million in ex-vessel revenue under the low harvest guideline case; and a no increase in landings or in ex-vessel revenue under the high harvest guideline case. Landings in the southern subarea Pacific sardine fishery would decrease by 8,467–mt and ex-vessel revenues would decrease by $743,181 relative to the status quo under the base case; a decrease of 26,011 mt in landings and $3.2 million in ex-vessel revenues under the low harvest guideline case; and, no changes under the high harvest guideline case.

For the 63 CPS limited entry vessels that would be eligible to participate in the southern subarea Pacific sardine fishery, the 8,467 mt loss in landings over the period under the base case, preferred alternative, represents a potential decrease in ex-vessel revenues of $11,797 per vessel from the status quo alternative, which would be 2.6

percent loss in each vessel's projected revenues. For the preferred alternative under the low harvest guideline case, vessels in the southern subarea fishery stand to lose $50,497 each, a 15.3–percent decrease from the status quo, and under the high harvest guideline case there would be no change in vessel earnings from the status quo. These estimates may understate the actual earnings impacts per vessel since only 61 vessels participated in the southern subarea fishery during 2004.

For the 41 vessels that could participate in the northern subarea fishery each would stand to gain $93,173 in ex-vessel revenues over the period under the base case, preferred alternative, a 10.6–percent increase from the status quo alternative. For the preferred alternative under the low harvest guideline case, vessels in the northern subarea fishery gain $114,533 each, a 26.4–percent increase from the status quo, and under the high harvest guideline case there would be no change from the status quo. These estimates may understate the actual earnings impacts per vessel since only 34 vessels recorded landings in the northern subarea fishery during 2004.

The Council considered six alternatives to the preferred alternative in addition to the status quo alternative. All alternatives resulted in ex-vessel revenue gains of various magnitudes for the fishery as a whole except the ''No Action'' alternative in all cases, and alternative 4.b under the low harvest guideline case. Although the proposed alternative did not yield the greatest overall gain, with the least negative impacts to individual vessels from any one region, it was deemed most equitable by industry members when considered relative to the full range of conservation and management objectives constituting optimum yield under the Magnuson-Stevens Act.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: November 9, 2005.

James W. Balsiger,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 660.502, the definition for ''Initial annual harvest guideline'' is added, in alphabetical order, to read as follows:

§ 660.502 Definitions.

* * * * *

Initial harvest guideline means a specified numerical harvest objective set at the beginning of the fishing season.

* * * * *

3. Section 660.509 is revised to read as follows:

§ 660.509 Closure of directed fishery.

* * * * *

(a) When the annual harvest guideline for either Pacific sardine or Pacific mackerel is reached, the directed fishery for Pacific sardine or Pacific mackerel shall be closed until the beginning of the next fishing season as stated in § 660.510 (a) and (b). The Regional Administrator shall announce in the **Federal Register** the date of closure of the directed fishery for Pacific sardine or Pacific mackerel. Upon such closure, Pacific mackerel may be harvested incidental to the directed fishery for Pacific sardine to the extent permitted by the annual harvest guideline. The Regional Administrator shall announce in the **Federal Register** the amount of the incidental trip limit, if any, that was recommended by the Council and approved by NMFS.

(b) When the allocation and reallocation levels for Pacific sardine in § 660.511 (f)-(h) are reached, the Pacific sardine fishery shall be closed until either it re-opens per the allocation scheme in § 660.511 (g) and (h) or the beginning of the next fishing season as stated in § 660.510 (a). The Regional Administrator shall announce in the **Federal Register** the date of the closure of the directed fishery for Pacific sardine.

4. In § 660.511 paragraph (f) is revised, and paragraphs (g), and (h) are added to read as follows:

§ 660.511 Catch restrictions.

* * * * *

(f) On January 1, 35 percent of the initial harvest guideline for Pacific sardine is allocated coastwide within the fishery management area.

(g) On July 1, 40 percent of the initial harvest guideline for Pacific sardine plus the remaining unharvested portion of the January 1 allocation in (f) is allocated coastwide within the fishery management area.

(h) On September 15, 25 percent of the initial harvest guideline for Pacific sardine plus the remaining unharvested portion of the July 1 allocation is allocated coastwide within the fishery management area.

[FR Doc. 05–22729 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 110805A]

RIN 0648–AT92

Fisheries of the Exclusive Economic Zone Off Alaska; Total Allowable Catch Amounts for ''Other Species'' in the Groundfish Fisheries of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 69 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). If approved, Amendment 69 would amend the manner in which the total allowable catch (TAC) for the ''other species'' complex is annually determined in the Gulf of Alaska (GOA). As part of the annual harvest specifications, the Council would recommend a TAC amount for the ''other species'' complex at a level less than or equal to 5 percent of the sum of the TACs for the remaining groundfish species and complexes in the GOA. This action would allow conservation and management of species within the ''other species'' category and is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, and other applicable laws. Comments from the public are welcome.

DATES: Comments on the amendment must be received on or before January 17, 2006.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn:

Lori Durall. Comments may be submitted by:

• E-mail: *0648–AT92–NOA-GOA69@noaa.gov*. Include in the subject line the following document identifier: GOA 69 NOA. E-mail comments, with or without attachments, are limited to 5 megabytes.

• Webform at the Federal e-Rulemaking portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

• Mail: P.O. Box 21668, Juneau, AK 99802.

• Hand delivery: 709 West 9th Street, Room 420A, Juneau, AK.

• Fax: 907–586–7557.

Copies of Amendment 69 and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for the amendment may be obtained from the mailing address specified above or from the Alaska Region NMFS website at *www.fakr.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Tom Pearson, 907–481–1780 or *tom.pearson@noaa.gov*.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that each Regional Fishery Management Council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a notice in the **Federal Register** that the amendment is available for public review and comment.

Amendment 69 was unanimously adopted by the Council in June 2005. If approved by NMFS, this amendment would allow the Council, as part of its annual harvest specifications process, to recommend a TAC amount for the ''other species'' complex at a level less than or equal to 5 percent of the sum of TACs for the remaining groundfish species and complexes in the GOA. This amendment is an interim step to conserve and manage the ''other species'' resource in the GOA until the Council develops a more comprehensive plan to modify the management of target and non-target species in the GOA.

Background on ''Other Species'' Management

The ''other species'' complex has evolved via a series of amendments to the GOA FMP. Amendment 15 to the FMP was implemented in 1987 (52 FR 7868, March 13, 1987); this amendment continued to define ''other species'' as species that have ''only slight economic value and are not generally targeted upon, but which are either significant components of the ecosystem or have economic potential.'' The TAC for the ''other species'' complex was established as 5 percent of the TACs for all target species. At this time the ''other species'' complex included sculpins, sharks, skates, eulachon, smelts, capelin, and octopi. In 1988, Atka mackerel and squid were added to the complex.

In 1992 the entire TAC of ''other species'' was harvested by GOA vessels targeting a single species, Atka mackerel. Because the Council believed that harvests of Atka mackerel could not be sustained at that level, the Council removed Atka mackerel from the ''other species'' complex in 1993 so that they could be conserved and managed as a separate target species.

In 1998, Amendment 39 defined a forage fish category in the FMP (63 FR 13798, March 23, 1998). Important prey species were included in this category. The forage fish category contains species that were formerly included in the ''other species'' complex, including species of eulachon, capelin, and smelts. NMFS implemented regulations that prohibited directed fishing on forage fish and established a maximum retainable amount (MRA) of 2 percent.

In 2003, conservation concerns were again raised regarding a developing skate fishery. The primary concern was the inability of inseason management to allow for some directed fishing, and still adequately protect skate stocks while these species were within the larger ''other species'' complex. In 2004, Amendment 63 to the GOA FMP removed skates from the ''other species'' complex and placed them in a target category (69 FR 26313, May 12, 2004).

The ''other species'' complex currently contains the following species groups: squids, sculpins, sharks, and octopi. As currently configured, the ''other species'' complex is open to directed fishing after the anticipated amount of incidental catch needs in other directed groundfish fisheries has been subtracted, up to the TAC for the complex. From 1997 to 2002, the TAC for ''other species'' has ranged from 11,330 mt to 15,570 mt, while the incidental catch of ''other species'' in other directed groundfish fisheries averaged 2,124 mt.

Conservation concerns have developed with the removal of several species over time from the ''other species'' complex. The primary basis of these concerns is the way the ''other species'' TAC is calculated. As species (e.g., Atka mackerel and skates) are removed from the ''other species'' complex and included in the targeted fisheries TACs, the ''other species'' TAC increases. This means that a larger allowable harvest amount is spread over fewer species groups in the ''other species'' complex. Additionally, given the configuration of the complex, it is possible to target one member of the complex close to the full complex-level TAC, which inhibits in-season management's ability to control directed fishing within the complex and raises concerns given the lack of available stock information on most species groups in the complex.

If approved, Amendment 69 would allow the Council to recommend a TAC for ''other species'' at an amount sufficient to meet anticipated incidental catch needs in other directed groundfish fisheries or at a higher level that allows for directed fishing targeting one or more ''other species'' to develop at a modest, sustainable level.

A proposed rule is also expected to be published that would allow for incidental catch management under the proposed amendment. A MRA is established for each groundfish fisheries species, species group, or complex to manage incidental catch. The MRA for ''other species'' in all directed fisheries is 20 percent, except for arrowtooth flounder which is presently at 0 percent. The MRAs applied to the arrowtooth flounder directed fishery are 5 percent for pollock and Pacific cod, 2 percent for the forage fish category, and 0 percent for all other groundfish. Previously, arrowtooth flounder had been used as a basis for retaining MRA amounts of more valuable groundfish, such as sablefish. Once landed, the arrowtooth flounder was discarded and the incidental catch was retained. With the development of the fishery in recent years, arrowtooth flounder are now targeted for retention and processing. Because arrowtooth flounder catch is more desirable than ''other species,'' arrowtooth flounder is unlikely to be harvested for the purpose of retaining ''other species'' incidental catch. Therefore, zero retention of ''other species'' is not necessary to control incidental harvest of ''other species'' in the arrowtooth flounder fishery. Some incidental catch of ''other species'' in the arrowtooth flounder fishery is inevitable. Raising the ''other species'' MRA from 0 to 20 percent in the arrowtooth flounder fishery would eliminate the requirement to discard all ''other species.''

Public comments are being solicited on proposed Amendment 69 through the end of the comment period stated (see **DATES**). A proposed rule that would implement the amendment may be published in the **Federal Register** for public comment at a later date. Public

comments on the proposed rule must be received by the end of the comment period on the amendment in order to be considered in the approval/disapproval decision on the amendment. All comments received by the end of the comment period on the amendment, whether specifically directed to the amendment or to the proposed rule, will be considered in the approval/disapproval decision. Comments received after that date will not be considered in the approval/disapproval decision on the amendment. To be considered, comments must be received not just postmarked or otherwise transmitted by close of business on the last day of the comment period.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 9, 2005.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 05–22728 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 70, No. 220
Wednesday, November 16, 2005

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Senior Executive Service: Membership of Performance Review Board

ACTION: Notice.

SUMMARY: The following persons are members of the 2005 Senior Executive Service Performance Review Board:

Lisa Fiely, Chair
Marilyn Marton
Drew Luten,
Franklin Moore
Amy Billingsley

FOR FURTHER INFORMATION CONTACT: Darren Shanks, 202–712–5685.

Dated: November 8, 2005.

Darren Shanks,

Executive and Performance Management.

[FR Doc. 05–22710 Filed 11–15–05; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 9, 2005.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: Request for Direct Loan Assistance and Request for Direct Loan Assistance (Youth Loans).

OMB Control Number: 0560–0167.

Summary of Collection: Section 302 (7 U.S.C. 1922) of the Consolidated Farm and Rural Development Act (CONACT) provides that ''the Secretary is authorized to make and insure loans under this title to farmers and ranchers.'' The Farm Service Agency (FSA) has issued regulations through the Federal Register process to implement the making and servicing of direct loans in chapters VII and XVIII of the Code of Federal Regulations. These regulations establish the information collection necessary for FSA to make and service direct loans. The loans include Operating, Farm Ownership, Soil and Water, Softwood Timber Production, Emergency, Economic Emergency, Economic Opportunity, Recreation, and Rural Housing loans for farm service buildings. FSA will collect information using forms FSA 410–1, Request for Direct Loan Assistance and FSA 2011, Request for Direct Loan Assistance (Youth Loans).

Need and Use of the Information: FSA will collect information to determine if the applicant/borrower meets the eligibility requirements established in the CONACT. FSA will also collect the following information: Name, address, telephone number; social security number; type of farming operation; information relating to the applicant's credit history (excluded on FSA 2011); the source and amount of nonfarm income; and a financial statement. If the information were not collected FAS would be forced to use outdated financial information, which would result in much higher losses to the government.

Description of Respondents: Farm; Federal Government; Business or other-for-profit; Individuals or households.

Number of Respondents: 36,469.

Frequency of Responses: Reporting: Other (on application).

Total Burden Hours: 59,343.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 05–22660 Filed 11–15–05; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 9, 2005.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB),

OIRA_Submission@OMB.EOP.GOV or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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Rural Housing Service

Title: 7 CFR 3575–A, ''Community Program Guaranteed Loans''.

OMB Control Number: 0575–0137.

Summary of Collection: The Rural Housing Service (RHS) is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public agencies, nonprofit corporations, and Indian tribes for the development of essential community facilities primarily serving rural residents. The Community Facilities Division of the RHS is considered Community Programs under the 7 CFR, part 3575, subpart A. Implementation of the Community Programs guaranteed loan program was affected to comply with the Appropriations Act of 1990 when Congress allocated funds for this authority. The guaranteed loan program encourages lender participation and provides specific guidance in the processing and servicing of guaranteed Community Facilities loans. RHS will collect information using several forms.

Need and Use of the Information: RHS will collect information to determine applicant/borrower eligibility, project feasibility, and to ensure borrowers operate on a sound basis and use loan funds for authorized purposes. Failure to collect proper information could result in improper determination of eligibility, improper use of funds, and/or unsound loans.

Description of Respondents: Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 48,015.

Frequency of Responses: Reporting: Quarterly; Annually.

Total Burden Hours: 83,030.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 05–22661 Filed 11–15–05; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 9, 2005.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Importation of Gypsy Moth Host Materials from Canada.

OMB Control Number: 0579–0142.

Summary of Collection: The United States Department of Agriculture (USDA) is responsible for preventing plant diseases or insect pests from entering the United States, preventing the spread of pests not widely distributed in the United States, and eradicating those imported pests when eradication is feasible. The Plant Protection Act authorizes the Department to carry out this mission. The regulations implementing these Acts are contained in Title 7 of the Code of Federal Regulations, Part 319: Foreign Quarantine Notices. The Plant Protection and Quarantine Division of USDA's Animal and Plant Health Inspection Service (APHIS) is responsible for ensuring that these regulations are enforced. Implementing these regulations is necessary in order to prevent injurious insect pests and plant diseases from entering the United States, a situation that could produce serious consequences for U.S. agriculture. APHIS will collect information using phytosanitary certificates, certificates of origin, and signed statements from individuals both within and outside the United States.

Need and Use of the Information: APHIS will collect information to ensure that importing foreign logs, trees, shrubs, and other articles do not harbor plant or insect pests such as the gypsy moth. If the information is not collected it would cripple APHIS' ability to ensure that trees, shrubs, logs, and a variety of other items imported from Canada do not harbor gypsy moths.

Description of Respondents: Business or other for-profit; Individuals or households; Not-for-profit institutions; Farms; State, Local or Tribal Government.

Number of Respondents: 2,146.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 81.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 05–22662 Filed 11–15–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator, Foreign Agricultural Service (FAS), today

accepted a petition filed by a group of Florida avocado producers for trade adjustment assistance. The Administrator will determine within 40 days whether or not increasing avocado imports contributed importantly to a decline in domestic producer prices of 20 percent or more during the marketing period beginning June 1, 2004, and ending February 28, 2005. If the determination is positive, all producers who produce and market their avocados in Florida will be eligible to apply to the Farm Service Agency for no cost technical assistance and for adjustment assistance payments.

FOR FURTHER INFORMATION CONTACT: Jean-Louis Pajot, Coordinator, Trade Adjustment Assistance for Farmers, FAS, USDA, (202) 720–2916, e-mail: *trade.adjustment@fas.usda.gov*.

Dated: November 3, 2005.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 05–22726 Filed 11–15–05; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Refined Sugar Re-Export Program

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

Using the waiver authority for the refined sugar re-export program found at 7 CFR 1530.113, the Foreign Agricultural Service is temporarily extending from 90 days to 270 days the period in which licensed refiners must export or transfer an equivalent amount of refined sugar, after entering a quantity of raw cane sugar, if such entry results in a positive balance to their license. For any raw sugar entered into U.S. customs territory on a license between September 1, 2005 and September 30, 2006, which resulted in a positive balance to the license, the licensed refiner shall have 270 days to export or transfer an equivalent amount of refined sugar. For any sugar entered into U.S. customs territory on a license after September 30, 2006, this waiver shall not apply, and the provisions of the regulations found at 7 CFR 1530.105 shall be in force.

Background

A request for comments on a proposed waiver to the sugar re-export program 90-day deadline was published in the **Federal Register** on September 30, 2005. Three comments were received, all in favor of temporarily extending from 90 days to 270 days the period in which licensed refiners must export or transfer an equivalent amount of refined sugar, after entering a quantity of raw cane sugar, if such entry results in a positive balance to their license.

FOR FURTHER INFORMATION CONTACT: Ron Lord, Deputy Director, Import Policies and Programs Division, FAS, USDA, (202) 720–2916, e-mail: *Ronald.lord@usda.gov.*

Dated: November 1, 2005.

Kenneth J. Roberts,

Foreign Agricultural Service.

[FR Doc. 05–22727 Filed 11–15–05; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Intergovernmental Advisory Committee Meeting, Northwest Forest Plan

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Intergovernmental Advisory Committee (IAC), Northwest Forest Plan (NWFP), has scheduled a meeting on November 30, 2005 from 9 a.m. to 4 p.m. at the Oregon Convention Center, downstairs conference room A106, 777 NE., Martin Luther King Jr. Blvd., Portland, OR 97232, 503–235–7575. The purpose of the meeting is to review progress on addressing key findings and trends from the April 19–20, 2005 Science and the Northwest Forest Plan, Knowledge Gained Over a Decade conference hosted by the USDA, Forest Service, Pacific Northwest Research Station, and to collect advice regarding the implementation improvement strategies being drafted.

The meeting is open to the public and fully accessible for people with disabilities. A 10-minute time slot is reserved for public comments at 9:10 a.m. Interpreters are available upon request at least 10 days prior to the meeting. Written comments may be submitted for the meeting record. Interested persons are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Questions regarding this meeting may be directed to Kath Collier, Management Analyst, Regional Ecosystem Office, 333 SW. First Avenue, P.O. Box 3623, Portland, OR 97208 (telephone: 503–808–2165).

Dated: October 31, 2005.

Anne Badgley,

Designated Federal Official.

[FR Doc. 05–22723 Filed 11–15–05; 8:45 am]

BILLING CODE 3410–11–P

ANTITRUST MODERNIZATION COMMISSION

Request for Public Comment

AGENCY: Antitrust Modernization Commission.

ACTION: Request for public comment.

SUMMARY: The Antitrust Modernization Commission requests comments from the public regarding specific questions relating to the issues selected for Commission study.

DATES: Comments are due by January 13, 2006.

ADDRESSES: By electronic mail: *comments@amc.gov*. By mail: Antitrust Modernization Commission, Attn: Public Comments, 1120 G Street, NW., Suite 810, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Andrew J. Heimert, Executive Director & General Counsel, Antitrust Modernization Commission. Telephone: (202) 233–0701; e-mail: *info@amc.gov*. Internet: *http://www.amc.gov*.

SUPPLEMENTARY INFORMATION: The Antitrust Modernization Commission was established to ''examine whether the need exists to modernize the antitrust laws and to identify and study related issues.'' Antitrust Modernization Commission Act of 2002, Pub. L. 107–273, section 11053, 116 Stat. 1856. In conducting its review of the antitrust laws, the Commission is required to ''solicit the views of all parties concerned with the operation of the antitrust laws.'' *Id.* By this request for comments, the Commission seeks to provide a full opportunity for interested members of the public to provide input regarding certain issues selected for Commission study. From time to time, the Commission may issue additional requests for comment on issues selected for study.

Comments should be submitted in written form. Comments should identify the topic to which it relates. Comments need not address every question within the topic. Comments exceeding 1500 words should include a brief (less than 250 word) summary. Commenters may submit additional background materials (such as articles, data, or other information) relating to the topic by separate attachment.

Comments should identify the person or organization submitting the

comments. If comments are submitted by an organization, the submission should identify a contact person within the organization. Comments should include the following contact information for the submitter: an address, telephone number, and email address (if available). Comments submitted to the Commission will be made available to the public in accordance with federal laws.

Comments may be submitted either in hard copy or electronic form. Electronic submissions may be sent by electronic mail to *comments@amc.gov*. Comments submitted in hard copy should be delivered to the address specified above, and should enclose, if possible, a CD–ROM or a 3½ inch computer diskette containing an electronic copy of the comment. The Commission prefers to receive electronic documents (whether by e-mail or on CD–ROM/diskette) in portable document format (.pdf), but also will accept comments in Microsoft Word format.

The AMC has issued this request for comments pursuant to its authorizing statute and the Federal Advisory Committee Act. Antitrust Modernization Commission Act of 2002, Pub. L. No. 107–273, § 11053, 116 Stat. 1758, 1856; Federal Advisory Committee Act, 5 U.S.C. App., § 10(a)(3).

Topic for Comment

The Commission requests comment on the following topic.

International

The adoption of competition or antitrust laws by over 100 jurisdictions around the world, as well as the globalization of commerce and markets, has given rise to the potential for conflict between the United States and foreign jurisdictions with respect to enforcement actions taken and remedies sought. Are there multilateral procedures that should be implemented, or other actions taken, to enhance international antitrust comity? In commenting, please address the significance of the issue, what solutions might reduce that problem, and how such solutions could be implemented by the United States.

Dated: November 9, 2005.

By direction of the Antitrust Modernization Commission.

Andrew J. Heimert,

Executive Director & General Counsel, Antitrust Modernization Commission.

[FR Doc. 05–22665 Filed 11–15–05; 8:45 am]

BILLING CODE 6820–YH–P

ANTITRUST MODERNIZATION COMMISSION

Notice of Public Hearings

AGENCY: Antitrust Modernization Commission.

ACTION: Notice of public hearings.

SUMMARY: The Antitrust Modernization Commission will hold public hearings on December 1 and 5, 2005. The topics of the hearings are Government Civil Remedies, Statutory Immunities and Exemptions, and Antitrust in Regulated Industries.

DATES: December 1, 2005, 10 to 12 p.m. and 1:15 to 4:30 p.m. December 5, 2005, 1 p.m. to 5 p.m. Interested members of the public may attend. Registration is not required.

ADDRESSES: For December 1: Federal Trade Commission, Conference Center, 601 New Jersey Avenue, NW., Washington, DC. For December 5: Rayburn House Office Building, Room 2237, Independence Ave. and South Capitol Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Andrew J. Heimert, Executive Director & General Counsel, Antitrust Modernization Commission: telephone: (202) 233–0701; e-mail: *info@amc.gov*. Mr. Heimert is also the Designated Federal Officer (DFO) for the Antitrust Modernization Commission.

SUPPLEMENTARY INFORMATION: The purpose of these hearings is for the Antitrust Modernization Commission to take testimony and receive evidence regarding Government Civil Remedies, Statutory Immunities and Exemptions, and Antitrust in Regulated Industries. The hearing on Government Civil Remedies will consist of one panel on December 1, 2005, and will begin at 10 a.m. and conclude at 12 p.m. The hearing on Statutory Immunities and Exemptions will consist of three panels on December 1, beginning at 1:15 p.m. and concluding at 4:30 p.m. The hearing on Antitrust in Regulated Industries will consist of two panels, and will be held on December 5, 2005, beginning at 1 p.m. and concluding at 5 p.m. Materials relating to the hearings, including lists of witnesses and the prepared statements of the witnesses, will be made available on the Commission's Web site (*http://www.amc.gov*) in advance of the hearings.

Interested members of the public may submit written testimony on the subject of the hearing in the form of comments, pursuant to the Commission's request for comments. See 70 FR 28902 (May 19, 2005). Members of the public will not be provided with an opportunity to make oral remarks at the hearings.

The AMC is holding this hearing pursuant to its authorizing statute. Antitrust Modernization Commission Act of 2002, Pub. L. No. 107–273, § 11057(a), 116 Stat. 1758, 1858.

Dated: November 9, 2005.

By direction of the Antitrust Modernization Commission.

Andrew J. Heimert,

Executive Director & General Counsel, Antitrust Modernization Commission.

[FR Doc. 05–22673 Filed 11–15–05; 8:45 am]

BILLING CODE 6820–YH–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Rhode Island Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference call of the Rhode Island Advisory Committee will convene at 10 a.m. and adjourn at 11 a.m. on Tuesday, November 15, 2005. The purpose of the conference call is to recap real estate foreclosure ''rescue'' scams briefing, discuss achievement gap in elementary and secondary schools in Rhode Island, and plan projects.

This conference call is available to the public through the following call-in number: 1–800–473–8692, access code number: 45678870. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over land-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and access code number.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Barbara de La Viez of the Eastern Regional Office, 202–376–7533 (TTY 202–375–8116), by 4 p.m. on Monday, November 14, 2005.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 4, 2005.

Barbara De La Viez,

Civil Rights Analyst, Regional Programs Coordination Unit.

[FR Doc. 05–22655 Filed 11–15–05; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Wyoming Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference call of the Wyoming State Advisory Committee will convene at 12 p.m. (MST) and adjourn at 1 p.m. (MST), Thursday, November 17, 2005. The purpose of the conference call is to discuss strategic planning including plans regional project on discrimination against Native Americans in reservation border towns, possible participation in school desegregation project, and progress of current SAC briefing summary, ''Dropout Rates of Minority Students in Wyoming Public Secondary Schools.''

This conference call is available to the public through the following call-in number: 1–800–473–7796; access code: 45188082. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or over wireless lines and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over land-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and access code.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Malee Craft, Rocky Mountain Regional Office, (303) 866–1040 (TDD 303–866–1049), by 3 p.m. (MST) on Monday, November 14, 2005.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 7, 2005.

Ivy L. Davis,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 05–22654 Filed 11–15–05; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–274–804)

Notice of Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On July 12, 2005, the Department of Commerce (''the Department'') published the preliminary results of its second administrative review of the antidumping duty order on carbon and certain alloy steel wire rod from Trinidad and Tobago. The review covers one producer of the subject merchandise. The period of review (''POR'') is October 1, 2003, through September 30, 2004. Based on our analysis of comments received, these final results differ from the preliminary results. The final results are listed below in the *Final Results of Review* section.

EFFECTIVE DATE: November 16, 2005.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or James Terpstra, at (202) 482–5973 or (202) 482–3965, respectively; AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On July 12, 2005, the Department published in the **Federal Register** the preliminary results of the second administrative review of the antidumping duty order on carbon and certain alloy steel wire rod from Trinidad and Tobago. *See Preliminary Results of Antidumping Duty Administrative Review: Carbon and Certain Steel Alloy Steel Wire Rod From Trinidad and Tobago*, 70 FR 39990 (July 12, 2005) (''*Preliminary Results*'').

We invited parties to comment on the *Preliminary Results*. On July 26, 2005, we extended the deadline for filing case briefs and rebuttal briefs to August 26, 2005, and August 31, 2005, respectively. On August 26, 2005, we received case briefs from the sole respondent, Carribean Ispat Limited (now known as Mittal Steel Point Lisas Limited) and its affiliates Ispat North America Inc. (now known as Mittal Steel North America) and Walker Wire (Ispat) Inc. (collectively ''CIL''), and the petitioners: ISG Georgetown Inc. (formerly Georgetown Steel Company), Gerdau Ameristeel US Inc. (formerly Co–Steel Raritan, Inc.), Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc. CIL and the petitioners submitted rebuttal briefs on August 31, 2005.

On September 1, 2005, CIL submitted a letter to the Department requesting that the Department remove the petitioners' rebuttal brief because it contained a new argument. On September 6, 2005, we returned the petitioners rebuttal brief filed with the new argument. On September 9, 2005, the petitioners submitted a letter objecting to the Department's rejection of its rebuttal brief and also argued that CIL submitted new information and new arguments in its rebuttal brief. On September 13, 2005, the petitioners resubmitted its brief as requested by the Department. On September 14, 2005, the Department sent a letter to the petitioners explaining that CIL's rebuttal brief only contained new information with regards to the referenced website and that the Department would disregard any information referenced from the website.

Scope of the Order

The merchandise subject to this order is certain hot–rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above–noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (''HTSUS'') definitions for (a) stainless steel; (b) tool steel; c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (*i.e.*, products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non–deformable inclusions greater than 20 microns and no deformable inclusions greater than 35

microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non–deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

For purposes of the grade 1080 tire cord quality wire rod and the grade 1080 tire bead quality wire rod, an inclusion will be considered to be deformable if its ratio of length (measured along the axis—that is, the direction of rolling—of the rod) over thickness (measured on the same inclusion in a direction perpendicular to the axis of the rod) is equal to or greater than three. The size of an inclusion for purposes of the 20 microns and 35 microns limitations is the measurement of the largest dimension observed on a longitudinal section measured in a direction perpendicular to the axis of the rod. This measurement methodology applies only to inclusions on certain grade 1080 tire cord quality wire rod and certain grade 1080 tire bead quality wire rod that are entered, or withdrawn from warehouse, for consumption on or after July 24, 2003.

The designation of the products as ''tire cord quality'' or ''tire bead quality'' indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should the petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end–use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under review are currently classifiable under subheadings 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0020, 7227.20.0090, 7227.20.0095, 7227.90.6051, 7227.90.6053, 7227.90.6058, and 7227.90.6059 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.[1]

Analysis of Comments Received

The issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the *Issues and Decision Memorandum* to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, from Stephen J. Claeys, Deputy Assistant Secretary (*Decision Memorandum*), which is hereby adopted by this notice. A list of the issues addressed in the *Decision Memorandum* is appended to this notice. The *Decision Memorandum* is on file in the Central Records Unit in Room B–099 of the main Commerce building, and can also be accessed directly on the Web at *www.ia.ita.doc.gov/frn*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have corrected the normal value calculation by using the home market price adjustment variable, instead of the U.S. price adjustment variable. In addition, we excluded certain wire rod sold in the home market from our calculation because it did not meet our model match criteria. These adjustments are discussed in further detail in the *Decision Memorandum*.

Final Results of Review

As a result of our review, we determine that the following weighted–average margin exists for the period of October 1, 2003, through September 30, 2004:

Producer	Weighted–Average Margin (Percentage)
CIL	4.13

Assessment

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries, pursuant to 19 CFR 351.212(b). The Department calculated importer–specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review.

Cash Deposits

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of carbon and certain alloy steel wire rod from Trinidad and Tobago entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a) of the Tariff Act of 1930, as amended (''the Act''): (1) for CIL, the cash deposit rate will be the rate listed above; (2) for merchandise exported by producers or exporters not covered in this review but covered in

[1] Effective January 1, 2005, U.S. Customs and Border Protection (''CBP'') reclassified certain HTSUS numbers related to the subject merchandise. *See* http://hotdocs.usitc.gov/tariff__chapters__current/toc.html.

the investigation, the cash deposit rate will continue to be the company–specific rate from the final determination; (3) if the exporter is not a firm covered in this review or the investigation, but the producer is, the cash deposit rate will be that established for the producer of the merchandise in these final results of review or in the final determination; and (4) if neither the exporter nor the producer is a firm covered in this review or the investigation, the cash deposit rate will be 11.40 percent, the ''All Others'' rate established in the less–than-fair–value investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402 (f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent increase in antidumping duties by the amount of antidumping duties reimbursed.

This notice also is the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 8, 2005.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

APPENDIX

Comment 1: Ministerial Error Related to Normal Value (''NV'') Adjustment

Comment 2: Methodology for Calculating Imputed Expenses for CEP (''CEP'') Sales

Comment 3: CEP Offset Adjustment and Level of Trade (''LOT'') Analysis

Comment 4: Treatment of Certain Merchandise as Non–prime

[FR Doc. E5–6331 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–583–831)

Stainless Steel Sheet and Strip in Coils from Taiwan: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 16, 2005.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan or Melissa Blackledge, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4081 or (202) 482–3518, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 30, 2004, the Department of Commerce (the Department) published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Taiwan, covering the period July 1, 2003, through June 30, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 69 FR 52857 (August 30, 2004).

On August 9, 2005, the Department published in the **Federal Register** the preliminary results of review. *See Stainless Steel Sheet and Strip in Coils from Taiwan: Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 46137 (August 9, 2005). The final results of review are currently due no later than December 7, 2005.

Extension of Time Limit for Final Results of Review

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination in an administrative review within 245 days after the last day of the anniversary month of an order or finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 245–day time limit for the preliminary determination to a maximum of 365 days and the time limit for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination. We have determined that it is not practicable to complete the final results of this review within the original time limit because the Department has required additional time to consider a number of complex affiliation and cost issues. Therefore, the Department is extending the time limit for completion of the final results of review by 60 days. We intend to issue the final results of review no later than February 5, 2006.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: November 8, 2005.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–6328 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

C–580–851

Dynamic Random Access Memory Semiconductors from the Republic of Korea: Notice of Extension of Time Limit for Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 16, 2005.

FOR FURTHER INFORMATION CONTACT: Cole Kyle or Marc Rivitz, Office of Antidumping/Countervailing Duty Operations, Office 1, Import Administration, U.S. Department of Commerce, Room 3069, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1503 or (202) 482–1382, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 15, 2005, the Department of Commerce (the Department) published the preliminary results of the countervailing duty order on dynamic random access memory semiconductors from the Republic of Korea (''Korea'') covering the period April 7, 2003, through December 31, 2003 (70 FR 54523). The final results are currently due no later than January 13, 2006.

Extension of Time Limits for Final Results

Under section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the final results of the review within the statutory time limit of 120 days after the publication of the preliminary results in the **Federal Register**. We are currently analyzing information submitted by interested parties in this review. This administrative review is extraordinarily complicated due to the unique nature of the countervailable subsidy practices being examined in this review. The Department finds that it needs additional time to consider the exceedingly complex issues raised in the case and rebuttal briefs regarding entrustment and direction. Moreover, record evidence relating to equityworthiness and creditworthiness is voluminous and time intensive to evaluate. Therefore, it is not practicable to complete this review within the time limit mandated by section 751(a)(3)(A) of the Act. Accordingly, the Department is extending the time limit for completion of these final results for 60 days (*i.e.*, until March 14, 2006).

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: November 8, 2005.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–6329 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

C–475–819

Certain Pasta from Italy: Notice of Partial Rescission of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request made on July 29, 2005, by Pastificio Antonio Pallante, S.r.L., the Department of Commerce initiated an administrative review of the countervailing duty order on certain pasta from Italy, covering the period January 1, 2004, through December 31, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 51009 (August 29, 2005). As a result of a timely withdrawal of the request for review by Pastificio Antonio Pallante, S.r.L., we are rescinding this review, in part.

EFFECTIVE DATE: November 16, 2005.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander or Marc Rivitz, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0182 and (202) 482–1382, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1996, the Department of Commerce (''the Department'') published a countervailing duty order on certain pasta from Italy. *See Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta (''Pasta'') From Italy*, 61 FR 38543 (July 24, 1996). On July 29, 2005, Pastificio Antonio Pallante, S.r.L., requested an administrative review of the countervailing duty order on certain pasta from Italy covering the period January 1, 2004, through December 31, 2004. In accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of the review on August 29, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 51009 (August 29, 2005). On October 25, 2005, Pastificio Antonio Pallante, S.r.L. withdrew its request for review. No other party requested a review for Pastificio Antonio Pallante, S.r.L.

Scope

Imports covered by this order are shipments of certain non–egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of this order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non–egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Instituto Mediterraneo Di Certificazione, Bioagricoop S.r.l., QC&I International Services, Ecocert Italia, Consorzio per il Controllo dei Prodotti Biologici, Associazione Italiana per l'Agricoltura Biologica, or Codex S.r.L. In addition, based on publically available information, the Department has determined that, as of August 4, 2004, imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by Bioagricert S.r.l. are also excluded from this order. *See Memorandum from Eric B. Greynolds to Melissa G. Skinner*, dated August 4, 2004, which is on file in the Department's Central Records Unit (''CRU'') in Room B–099 of the main Department building.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the *Harmonized Tariff Schedule of the United States* (''*HTSUS*''). Although the *HTSUS* subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

The Department has issued the following scope rulings:

1. On August 25, 1997, the Department issued a scope ruling that multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the antidumping and countervailing duty orders. *See Memorandum from Edward Easton to Richard Moreland*, dated August 25, 1997, which is on file in the CRU.

2. On July 30, 1998, the Department issued a scope ruling, finding that multipacks consisting of six one–pound packages of pasta that are shrink–wrapped into a single package are within the scope of the antidumping and countervailing duty orders. *See Letter from Susan H. Kuhbach to Barbara P. Sidari*, dated July 30, 1998, which is available in the CRU.

3. On October 23, 1997, the petitioners filed an application requesting that the Department initiate an anti–circumvention investigation of Barilla S.r.L. (''Barilla''), an Italian producer and exporter of pasta. The Department initiated the investigation on December 8, 1997. *See Initiation of Anti–Circumvention Inquiry on Antidumping Duty Order on Certain Pasta From Italy*, 62 FR 65673 (December 15, 1997). On October 5, 1998, the Department issued its final determination that, pursuant to section 781(a) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (''the Act''), circumvention of the antidumping order on pasta from Italy was occurring by reason of exports of

bulk pasta from Italy produced by Barilla which subsequently were repackaged in the United States into packages of five pounds or less for sale in the United States. *See Anti–Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 63 FR 54672 (October 13, 1998).

4. On October 26, 1998, the Department self–initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances is within the scope of the antidumping and countervailing duty orders. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the antidumping and countervailing duty orders. *See Memorandum from John Brinkmann to Richard Moreland*, dated May 24, 1999, which is available in the CRU.

5. On April 27, 2000, the Department self–initiated an anti–circumvention inquiry to determine whether Pastificio Fratelli Pagani S.p.A.'s importation of pasta in bulk and subsequent repackaging in the United States into packages of five pounds or less constitutes circumvention with respect to the antidumping and countervailing duty orders on pasta from Italy pursuant to section 781(a) of the Act and 19 CFR 351.225(b). *See Certain Pasta from Italy: Notice of Initiation of Anti–circumvention Inquiry of the Antidumping and Countervailing Duty Orders*, 65 FR 26179 (May 5, 2000). On September 19, 2003, we published an affirmative finding of the anti–circumvention inquiry. *See Anti–Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 54888 (September 19, 2003).

Rescission of Review

The Department's regulations at 19 CFR 351.213(d)(1) provide that the Department will rescind an administrative review, in part, if a party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Pastificio Antonio Pallante, S.r.L. withdrew its request for an administrative review on October 25, 2005, which is within the 90–day deadline, and no other party requested a review with respect to this company. Therefore, the Department is rescinding this administrative review, in part, for Pastificio Antonio Pallante, S.r.L.

This notice is issued and published in accordance with 19 CFR 351.213(d)(4).

Dated: November 8, 2005.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–6330 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111005B]

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Law Enforcement Advisory Panel (LEAP) Meeting via Conference Call.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene its Law Enforcement Advisory Panel (LEAP) via Conference Call to approve the 2006 Operations Plan to the 2005–2010 Strategic Plan that outlines joint goals and objectives for state and Federal marine resource enforcement activities.

DATES: The Conference Call will be held on Monday, December 5, 2005.

ADDRESSES: The meeting will be held via conference call and listening stations will be available. For specific locations see **SUPPLEMENTARY INFORMATION**.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Deputy Executive Director, Gulf of Mexico Fishery Management Council; telephone: 813–348–1630.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council (Council) will convene its Law Enforcement Advisory Panel (LEAP) by conference call on December 5, 2005, at 4 p.m. EST. The purpose of the meeting is to approve the 2006 Operations Plan to the 2005–2010 Strategic Plan that outlines joint goals and objectives for state and federal marine resource enforcement activities. Once approved by the LEAP, the Operations Plan will be submitted to the Council for approval at its January 2006 meeting. Listening stations for members of the public to hear the LEAP discussions will be set up at the Council office—2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607 and at the Gulf States Marine Fisheries Commission Office—2404 Government Street, Ocean Springs, MS 39564.

A copy of the operations plan and related materials can be obtained by calling the Council office at 813–348–1630.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dawn Aring at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: November 10, 2005.

Tracey Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E5–6311 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111005C]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of its Texas Habitat Protection Advisory Panel (AP).

DATES: The Texas Habitat Protection AP will meet from 9 a.m. to 4 p.m. on Tuesday, December 6, 2005.

ADDRESSES: The meeting will be held at the Hilton Houston Hobby Airport, 8181 Airport Boulevard, Houston, TX 77061; telephone: 713–645–3000.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Jeff Rester, Habitat Specialist, Gulf States Marine Fisheries Commission, Post Office Box 726, Ocean Springs, MS 39564; telephone 228–875–5912.

SUPPLEMENTARY INFORMATION: The Texas Habitat Protection AP will convene to discuss the following topics: the Sabine-Neches waterway deepening project; the

comprehensive restoration plan for west Galveston Island; changes to 316b of the Clean Water Act rules; potential fishery impacts of liquefied natural gas facilities; and the status of beneficial use sites in Galveston Bay.

The Texas Habitat Protection AP is comprised of representatives from the recreational and commercial fishing groups, conservation organizations, academia, and state and federal resource agencies. The Texas group is part of a three unit Habitat Protection Advisory Panel (AP) of the Gulf of Mexico Fishery Management Council. The principal role of the advisory panels is to assist the Council in attempting to maintain optimum conditions within the habitat and ecosystems supporting the marine resources of the Gulf of Mexico. Advisory panels serve as a first alert system to call to the Council's attention proposed projects being developed and other activities which may adversely impact the Gulf marine fisheries and their supporting ecosystems. The panels may also provide advice to the Council on its policies and procedures for addressing environmental affairs.

Although non-emergency issues not contained in the agendas may come before the AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Copies of the meeting agenda can be obtained by calling the Council office at 813–348–1630.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dawn Aring at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: November 10, 2005.

Tracey Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E5–6312 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111005A]

North Pacific Fishery Management Council; Notice of Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Meetings of the North Pacific Fishery Management Council and its advisory committees.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings December 5 through 13, 2005, at the Anchorage Hilton Hotel, 500 West 3rd Avenue, Anchorage, AK.

DATES: The Council's Advisory Panel (AP) will begin at 8 a.m., Monday, December 5 and continue through Friday December 9. The Scientific and Statistical Committee (SSC) will begin at 8 a.m. on Monday December 5 and continue through Wednesday, December 7, 2005.

The Council will begin its plenary session at 8 a.m. on Wednesday, December 7, continuing through December 13, 2005. All meetings are open to the public except executive sessions. The Enforcement Committee will meet Tuesday, December 6 in the Willow Room, from 1 p.m. to 5 p.m. to address enforcement aspects relevant to Council agenda items. The Ecosystem Committee will meet Tuesday, December 6 in the Birch Room, from 1 p.m. to 5 p.m. to discuss the Council's progress on the Aleutian Island Ecosystem plan initiatives and the progress on the broader ecosystem collaboration initiative.

ADDRESSES: Anchorage Hilton Hotel, 500 West 3rd Avenue, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, Phone: 907–271–2809.

SUPPLEMENTARY INFORMATION:

Council Plenary Session

The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Reports

Executive Director's Report

NMFS Management Report (includes update on rockfish court case, Chiniak Gully experiment, crab arbitration timing)

U.S. Coast Guard Report

Alaska Department of Fish & Game (ADF&G) Report (includes Alaska Board of Fisheries (BOF) proposals and subsistence halibut report)

U.S. Fish & Wildlife Service Report

Protected Species Report (Report on Right Whale critical habitat designation; Marine Mammal Commission update; Fishery Management Plan (FMP) level Biological Opinion update (BiOp))

2. Halibut Charter: Consider action to rescind Halibut Charter Individual Fishery Quotas (IFQ)

3. Community Development Quotas (CDQ): Final action on Environmental Assessment/Regulatory Impact Review (EA/RIR) on management CDQ reserves; review of alternatives/options for revised Amendment 71.

4. BSAI Pacific Cod Allocations: Discuss Trawl catcher vessel eligibility options, action as necessary.

5. Gulf of Alaska (GOA) Groundfish Rationalization: Review preliminary community data; review other data and information and revise alternatives/options as appropriate; review crab and salmon bycatch data, alternatives, and options, and take action as necessary, discussion paper on crew information.

6. Groundfish Management: Final review EA, review/approve GOA specifications and Stock Assessment Fishery Evaluation (SAFE) report, review/approve BSAI specifications and SAFE report; review discussion paper on BSAI pollock A-season start date; review strawman problem statement and discuss alternatives for Bering Sea Habitat Conservation/Essential Fish Habitat; Review BSAI salmon bycatch alternatives/options for closure areas.

7. Ecosystem Approaches: Report from interagency meeting and discussion of Aleutian Island Fishery Ecosystem Plan and Ecosystem Approach Management.

8. Staff Tasking: Committee and tasking; review discussion paper to change Maximum Retainable Amount (MRA) for the non-American Fisheries Act (AFA) catcher processor fleet, Vessel Monitor System (VMS) discussion.

9. Other Business

The SSC agenda will include the following issues:

1. C–2 IFQ Omnibus
2. Groundfish Management
3. Review Scallop Assessment Methods
4. Chiniak research

The Advisory Panel will address the same agenda issues as the Council (with the exception of C–1 Halibut Charter).

Special Accommodations

These meetings are physically accessible to people with disabilities.

Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at 907–271–2809 at least 7 working days prior to the meeting date.

November 10, 2005.

Tracey Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E5–6310 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111005E]

Pacific Fishery Management Council; Model Evaluation Workgroup

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Model Evaluation Workgroup (MEW) will hold a work session, which is open to the public.

DATES: The work session will be held Monday, December 5, 2005, from 9 a.m. to 4 p.m.

ADDRESSES: The work session will be held at the U.S. Fish and Wildlife Service, 1121 Cardinal Court, Suite 100, Vancouver, WA 98683 Telephone: 360–604–2500.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Salmon Management Staff Officer, Pacific Fishery Management Council, 503–820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the work session is to further develop documentation for the Chinook and Coho Fishery Regulation Assessment Models.

Although nonemergency issues not contained in the meeting agendas may come before the MEW for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503–820z6–2280 at least 5 days prior to the meeting date.

Dated: November 10, 2005.

Tracey Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E5–6313 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111005D]

Pacific Fishery Management Council; December 1, 2005 Legislative Committee Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council (Council) will convene a meeting of the Legislative Committee (Committee), which is open to the public. The primary purpose of the meeting is to review Federal legislation regarding the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Committee may also review Federal and state legislative matters relative to individual quota programs, aquaculture, and other Council interests.

DATES: The Legislative Committee Meeting will be held on December 1, 2005, from 8:30 p.m. to 5 p.m.

ADDRESSES: The meeting will be held in the West Conference Room at the Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384, 503–820–2280.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Burner, Pacific Fishery Management Council Staff Officer, 503–820–2280.

SUPPLEMENTARY INFORMATION: The Legislative Committee often meets concurrently with the Council but will next meeting away from a Council meeting to allow additional time to deliberate several significant Federal legislation matters. Although not limited to the following topics, the Committee will focus on recently distributed draft legislation pertaining to the reauthorization of the MSA. Additionally, the Committee may discuss Senate Bill 1549, the *Cooperative Hake Improvement and Conservation Act of 2005* introduced by U.S. Senator Gordon Smith (R-Oregon) and Senate Bill 1195, the *National Offshore Aquaculture Act of 2005*. Committee recommendations will be provided in a report to the Council which may form the basis for Council input on these important legislative matters.

Although nonemergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503–820–2280 at least 5 days prior to the meeting date.

Dated: November 10, 2005.

Tracey Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E5–6326 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111005F]

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Snapper Grouper Advisory Panel, a joint meeting of its Snapper Grouper Advisory Panel and Snapper Grouper Committee, and a joint meeting of its Snapper Grouper

Advisory Panel, Snapper Grouper Committee, and Controlled Access Committee. The Council will also hold a meeting of its Snapper Grouper Committee, Controlled Access Committee, Scientific and Statistical Selection Committee, Southeast Data, Assessment, and Review (SEDAR) Committee, Joint Executive and Finance Committees, Personnel Committee (CLOSED SESSION) and a meeting of the full Council. In addition, the Council will hold a public hearing and public comment periods as part of the meeting.

DATES: The meeting will be held in December 2005. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Courtyard Marriott, 100 Charlotte Avenue, Carolina Beach, NC 28428; Telephone: (1–800) 458–3606 or 910/458–2030, FAX 910/458–2050.

Copies of documents are available from Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: 843/571–4366 or toll free at 866/SAFMC–10; fax: 843/769–4520; email: *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION:

Meeting Dates

1. Council Session: December 5, 2005, 10 a.m.–12 noon

From 10:00 a.m. – 10:15 a.m., the Council will call the meeting order, make introductions and roll call, adopt the meeting agenda, and approve earlier meeting minutes.

From 10:15 a.m. – 12 noon, the Council will meet to consider provisions in the Gulf of Mexico Fishery Management Council's Essential Fish Habitat Amendment that amends the joint South Atlantic and Gulf Council Coastal Migratory Pelagic and Spiny Lobster Fishery Management Plans (FMPs). Public comment on the amendment will be held at 10:15 a.m. The Council will also consider the Gulf of Mexico Council's Generic Amendment that amends the joint South Atlantic and Gulf Council Coastal Migratory Pelagics FMP (establishes a limited entry system for the Gulf reef fish and South Atlantic and Gulf coastal migratory pelagic charter/headboat permits). Public comment on the amendment will be held at 10:15 a.m. The Council is scheduled to take final action regarding these amendments. The Council will then recess until December 8, 2005.

2. Snapper Grouper Advisory Panel Meeting: December 5, 2005, 1:30 p.m. – 5:30 p.m.

The Snapper Grouper Advisory Panel will meet to review and develop recommendations regarding Amendment 13C to the Snapper Grouper Fishery Management Plan. The amendment addresses management measures for snowy grouper, golden tilefish, vermilion snapper, black sea bass, and red porgy. In addition, the Advisory Panel will review issues and provide recommendations relative to the draft of Amendment 13B to the Snapper Grouper Fishery Management Plan regarding mandates under the Sustainable Fisheries Act to address overfishing. The Snapper Grouper Advisory Panel will also discuss options for controlled access for the commercial fishery.

6 p.m. – Public Hearing for Amendment 13C to the Snapper Grouper Fishery Management Plan

3. Joint Snapper Grouper Committee and Snapper Grouper Advisory Panel Meeting: December 6, 2005, 8:30 a.m. – 12 noon

The Snapper Grouper Committee and Advisory Panel will meet jointly to review and develop recommendations regarding Snapper Grouper Amendment 13C. During the joint meeting, members will review and discuss comments received during a series of public hearings, Law Enforcement Committee recommendations, Snapper Grouper Advisory Panel recommendations, and Scientific and Statistical Committee (SSC) input. The Committee and AP will also develop recommendations for final alternatives to be included in Amendment 13B to the Snapper Grouper FMP after reviewing reports from the Snapper Grouper Advisory Panel, Law Enforcement Committee, SSC, and staff.

4. Joint Snapper Grouper Committee, Snapper Grouper Advisory Panel, and Controlled Access Committee Meeting: December 6, 2005, 1:30 p.m. until 5 p.m.

During the joint meeting, members will receive presentations on topics relevant to controlled access, including an introduction to Dedicated Access Privilege Programs (DAPPs), a review of the Council's Wreckfish Individual Fishing Quota (IFQ) Program, the Gulf of Mexico Council's Red Snapper IFQ Program, analysis of fishing effort shifts in North Carolina, and the potential for DAPPs for the south Atlantic. Members will discuss these issues and the Advisory Panel will formulate recommendations.

5. Snapper Grouper Committee Meeting: December 7, 2005, 8:30 a.m. until 12 noon.

The Snapper Grouper Committee will develop recommendations for finalizing Amendment 13C to the Snapper Grouper FMP for submission to the Secretary of Commerce. In addition, the Committee will finalize its recommendations for management alternatives to be included in Amendment 13B to the FMP, and develop recommendations based on input from the Snapper Grouper Advisory Panel regarding controlled access for the fishery. The recommendations will be forwarded to the Controlled Access Committee for consideration.

6. Controlled Access Committee Meeting: December 7, 2005, 1:30 p.m. – 3:30 p.m.

The Controlled Access Committee will review recommendations from the Snapper Grouper Committee and the Snapper Grouper Advisory Panel regarding controlled access and develop recommendations for a timeline for developing a snapper grouper IFQ program.

7. Scientific and Statistical Selection Committee Meeting: December 7, 2005, 3:30 p.m. – 5 p.m.

The Scientific and Statistical Selection Committee will review policy recommendations and discuss.

8. SEDAR Committee Meeting: December 8, 2005, 8:30 a.m. – 10:30 a.m.

The SEDAR Committee will receive a report on the status of the SEDAR stock assessment review process and the results of the August SEDAR Steering Committee meeting. The Committee will also review terms of reference for the gag full assessment and red porgy update, and discuss the use of stock assessment models.

9. Joint Executive/Finance Committees Meeting: December 8, 2005, 10:30 a.m. – 12 noon

The Executive Committee will meet jointly with the Finance Committee and receive updates on the Council's Calendar Year (CY) 2005 budget and the Fiscal Year 2006 Congressional budget. The Committees will then establish timelines for the Council's CY 2006 FMP/Amendment/Framework schedule and develop the CY 2006 budget.

10. Personnel Committee Meeting (CLOSED SESSION): December 8, 2005, 1:30 p.m. – 2:30 p.m.

11. Council Session: December 8, 2005, 2:30 p.m. – 5:30 p.m. and December 9, 2005, 8:30 a.m. – 12 noon

From 2:30 p.m. – 3 p.m., the Council will receive a report from its Law

–Enforcement Committee and take action as appropriate.

From 3 p.m.–4 p.m., the Council will receive a report from its Snapper Grouper Committee and approve Amendment 13C for submission to the Secretary of Commerce. The Council will also finalize a list of management alternatives for Amendment 13B to the Snapper Grouper FMP. Note: A public comment period on Amendment 13C will be held at 2:00 p.m.

From 4 p.m.–4:30 p.m., the Council will receive a report from the Controlled Access Committee and take action as appropriate.

From 4:30 p.m.–5 p.m., the Council will hear a report from the Scientific and Statistical Selection Committee and take other action as appropriate.

From 5 p.m.–5:30 p.m., the Council will hear a report from the SEDAR Committee and take action as appropriate.

Council Session: December 9, 2005, 8:30 a.m.–12 noon.

From 8:30 a.m.–9 a.m., the Council will receive a report from the Joint Executive/Finance Committee and take action as appropriate.

From 9 a.m.–9:30 a.m., the Council will receive a briefing from NOAA General Counsel on Litigation issues. (CLOSED SESSION)

From 9:30 a.m.–10 a.m., the Council will receive a report on the Council Chairmen/National Marine Fisheries Service Leadership meeting.

From 10 a.m.–12 noon, the Council will receive status reports from NOAA Fisheries' Southeast Regional Office, NOAA Fisheries' Southeast Fisheries Science Center, agency and liaison reports, and discuss other business including upcoming meetings. Documents regarding these issues are available from the Council office (see **ADDRESSES**).

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Except for advertised (scheduled) public hearings and public comment, the times and sequence specified on this agenda are subject to change.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by November 30, 2005.

November 10, 2005.

Tracey Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E5–6314 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Privacy Act of 1974; System of Records

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of amendment of Privacy Act system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the United States Patent and Trademark Office (USPTO) is amending the system of records listed under ''COMMERCE/PAT–TM–1 Attorneys and Agents Registered to Practice Before the Office.'' This action is being taken to update the Privacy Act notice. We invite the public to comment on the amendments noted in this publication.

DATES: Written comments must be received no later than December 16, 2005. The amendments will become effective as proposed on December 16, 2005, unless the USPTO receives comments that would result in a contrary determination.

ADDRESSES: You may submit written comments by any of the following methods:

- E-mail: *Steve.Hanson@uspto.gov.*
- *Fax:* (571) 273–4097, marked to the attention of Steve Hanson.
- Mail: Steve Hanson, Office of Enrollment and Discipline, United States Patent and Trademark Office, Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313–1450.

All comments received will be available for public inspection at the USPTO Public Search Facility, Madison East Building—1st Floor, 600 Dulany Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Director, Office of Enrollment and Discipline, United States Patent and Trademark Office, Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313–1450, (571) 272–4097.

SUPPLEMENTARY INFORMATION: The United States Patent and Trademark Office (USPTO) is giving notice of an amendment to a system of records that is subject to the Privacy Act of 1974. This system of records maintains information on attorneys and agents who are, or have been, registered to practice before the USPTO in patent cases, as well as applicants and former applicants for such registration to practice. The Privacy Act notice is being updated with current address information for the system location and system manager. The authority for maintenance of the system and rule references for the notification procedure and contesting record procedures are being updated to correspond to the current statutes and rules for those items as related to the USPTO. The descriptions of retrievability and safeguards have also been revised to indicate that the relevant electronic database for this system of records is password protected and accessible only by authorized staff members of the USPTO Office of Enrollment and Discipline.

The Privacy Act system of records notice, ''COMMERCE/PAT–TM–1 Attorneys and Agents Registered to Practice Before the Office,'' was previously published at 65 FR 19868 (April 13, 2000). The amended system of records notice is published in its entirety below.

COMMERCE/PAT–TM–1

SYSTEM NAME:

Attorneys and Agents Registered to Practice Before the Office.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Enrollment and Discipline, United States Patent and Trademark Office, 600 Dulany Street, Alexandria, VA 22314; Office of the Solicitor, United States Patent and Trademark Office, 600 Dulany Street, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys and agents who are, or have been, registered to practice before the United States Patent and Trademark Office (USPTO) in patent cases, and applicants and former applicants for such registration to practice.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information, personal and professional qualifications, character and fitness report, investigations of an applicant's

suitability or eligibility for registration to practice before the USPTO, undertakings of former patent examiners, current address, and status information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

35 U.S.C. 2.

PURPOSE(S):

To carry out the duties of the USPTO under 35 U.S.C. 2(b)(2)(D), in particular, the enrollment and recognition of individuals to practice as attorneys and agents before the USPTO in patent, trademark, and other non-patent matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Prefatory Statement of General Routine Uses Nos. 1–5 and 8–13, as found at 46 FR 63501–63502 (December 31, 1981). A public roster including an address of record, law firm or company affiliation, telephone number, and registration number of the registered individuals is published and disseminated; registration status is disseminated upon inquiry; and information may be published or otherwise disclosed to solicit information regarding an applicant's suitability and eligibility for registration to practice before the USPTO.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, microfilm, and machine-readable storage media.

RETRIEVABILITY:

Filed alphabetically by name or registration number. The files are searchable on a database available only to authorized staff members of the Office of Enrollment and Discipline.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access. Electronic files are stored in secured premises with access limited to those whose official duties require access. The electronic files are password protected.

RETENTION AND DISPOSAL:

Records retention and disposal is in accordance with the unit's Record Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Enrollment and Discipline, United States Patent and Trademark Office, Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313–1450.

NOTIFICATION PROCEDURE:

Information may be obtained from the Director, Office of Enrollment and Discipline, United States Patent and Trademark Office, Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313–1450. Requester should provide name, address, date of application, and record sought, pursuant to the inquiry provisions appearing in 37 CFR part 102 subpart B.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The rules for access, for contesting contents, and for appealing initial determinations by the individual concerned appear in 37 CFR part 102 subpart B.

RECORD SOURCE CATEGORIES:

Subject individual, references, and individuals furnishing information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(2), all investigatory materials in the record which meet the criteria in 5 U.S.C. 552a(k)(2) are exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations because of the necessity to exempt this information and material in order to accomplish the law enforcement function of the agency, to prevent subjects of investigations from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel.

Dated: November 9, 2005.

Susan K. Brown,

Records Officer, USPTO, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division.

[FR Doc. 05–22715 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Privacy Act of 1974; System of Records

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of amendment of Privacy Act system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the United States Patent and Trademark Office (USPTO) is amending the system of records listed under ''COMMERCE/PAT–TM–5 Non-Registered Persons Rendering Assistance to Patent Applicants.'' This action is being taken to update the Privacy Act notice. We invite the public to comment on the amendments noted in this publication.

DATES: Written comments must be received no later than December 16, 2005. The amendments will become effective as proposed on December 16, 2005, unless the USPTO receives comments that would result in a contrary determination.

ADDRESSES: You may submit written comments by any of the following methods:

- E-mail: *Steve.Hanson@uspto.gov.*
- Fax: (571) 273–4097, marked to the attention of Steve Hanson.
- Mail: Steve Hanson, Office of Enrollment and Discipline, United States Patent and Trademark Office, Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313–1450.

All comments received will be available for public inspection at the USPTO Public Search Facility, Madison East Building—1st Floor, 600 Dulany Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Director, Office of Enrollment and Discipline, United States Patent and Trademark Office, Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313–1450, (571) 272–4097.

SUPPLEMENTARY INFORMATION: The United States Patent and Trademark Office (USPTO) is giving notice of an amendment to a system of records that is subject to the Privacy Act of 1974. This system of records maintains information on persons other than registered attorneys or agents who have offered various services to inventors, patent applicants, and patentees. The Privacy Act notice is being updated with current address information for the system location and system manager. The authority for maintenance of the system and rule references for the notification procedure and contesting

record procedures are being updated to correspond to the current statutes and rules for those items as related to the USPTO.

The Privacy Act system of records notice, ''COMMERCE/PAT–TM–5 Non-Registered Persons Rendering Assistance to Patent Applicants,'' was previously published at 65 FR 19868 (April 13, 2000). The amended system of records notice is published in its entirety below.

COMMERCE/PAT–TM–5

SYSTEM NAME:

Non-Registered Persons Rendering Assistance to Patent Applicants.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Enrollment and Discipline, United States Patent and Trademark Office, 600 Dulany Street, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons other than registered attorneys or agents who have offered or rendered, for payment, various services to inventors, patent applicants, and patentees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Declarations of assistance received and other reports or complaints, including names and addresses, of persons rendering services, and information obtained and used for investigatory and law enforcement purposes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

35 U.S.C. 2.

PURPOSE(S):

To carry out the duties of the USPTO under 35 U.S.C. 2(b)(2)(D), in particular, the enrollment and recognition of individuals to practice as attorneys and agents before the USPTO in patent, trademark, and other non-patent matters; and to maintain complaints, reports, and other information on persons other than registered attorneys or agents who have offered services to inventors, patent applicants, and patentees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Providing notice to patent applicants regarding whether or not the persons from whom assistance was received are registered to practice before the USPTO. Used for investigative purposes. Also, see Prefatory Statement of General Routine Uses Nos. 1–5, 8–10, and 13, as found at 46 FR 63501–63502 (December 31, 1981).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, microfilm, and machine-readable storage media.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access. Electronic files are stored in secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Records retention and disposal is in accordance with the unit's Record Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Enrollment and Discipline, United States Patent and Trademark Office, Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313–1450.

NOTIFICATION PROCEDURE:

Information may be obtained from the Director, Office of Enrollment and Discipline, United States Patent and Trademark Office, Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313–1450. Requester should provide name, address, date of application, and record sought, pursuant to the inquiry provisions appearing in 37 CFR part 102 subpart B.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The rules for access, for contesting contents, and for appealing initial determinations by the individual concerned appear in 37 CFR part 102 subpart B.

RECORD SOURCE CATEGORIES:

Patent applicants who have received and paid for services by the individuals on whom the records are maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(2), all investigatory materials in the record which meet the criteria in 5 U.S.C. 552a(k)(2) are exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations because of the necessity to exempt this information and material in order to accomplish the law enforcement function of the agency, to prevent subjects of investigations from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel.

Dated: November 9, 2005.

Susan K. Brown,

Records Officer, USPTO, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division.

[FR Doc. 05–22716 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Privacy Act of 1974; System of Records

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of amendment of Privacy Act system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the United States Patent and Trademark Office (USPTO) is amending the system of records listed under ''COMMERCE/PAT–TM–2 Complaints, Investigations and Disciplinary Proceedings Relating to Registered Patent Attorneys and Agents.'' This action is being taken to update the Privacy Act notice. We invite the public to comment on the amendments noted in this publication.

DATES: Written comments must be received no later than December 16, 2005. The amendments will become effective as proposed on December 16, 2005, unless the USPTO receives comments that would result in a contrary determination.

ADDRESSES: You may submit written comments by any of the following methods:

- E-mail: *Steve.Hanson@uspto.gov*.
- Fax: (571) 273–4097, marked to the attention of Steve Hanson.
- Mail: Steve Hanson, Office of Enrollment and Discipline, United States Patent and Trademark Office,

Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313–1450.

All comments received will be available for public inspection at the USPTO Public Search Facility, Madison East Building—1st Floor, 600 Dulany Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Director, Office of Enrollment and Discipline, United States Patent and Trademark Office, Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313–1450, (571) 272–4097.

SUPPLEMENTARY INFORMATION: The United States Patent and Trademark Office (USPTO) is giving notice of an amendment to a system of records that is subject to the Privacy Act of 1974. This system of records maintains information on complaints, investigations, and disciplinary proceedings involving attorneys and agents practicing, registered to practice, or excluded from practicing before the USPTO. The Privacy Act notice is being updated with current address information for the system location and system manager. The authority for maintenance of the system and rule references for the notification procedure and contesting record procedures are being updated to correspond to the current statutes and rules for those items as related to the USPTO. The descriptions of retrievability and safeguards have also been revised to indicate that the relevant electronic database for this system of records is password protected and accessible only by authorized staff members of the USPTO Office of Enrollment and Discipline.

The Privacy Act system of records notice, ''COMMERCE/PAT–TM–2 Complaints, Investigations and Disciplinary Proceedings Relating to Registered Patent Attorneys and Agents,'' was previously published at 65 FR 19868 (April 13, 2000). The amended system of records notice is published in its entirety below.

COMMERCE/PAT–TM–2

SYSTEM NAME:

Complaints, Investigations and Disciplinary Proceedings Relating to Registered Patent Attorneys and Agents.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Enrollment and Discipline, United States Patent and Trademark Office, 600 Dulany Street, Alexandria, VA 22314; Office of the Solicitor, United States Patent and Trademark Office, 600 Dulany Street, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys and agents registered to practice before the United States Patent and Trademark Office (USPTO) in patent cases, attorneys practicing before the USPTO in trademark cases, attorneys appearing before the USPTO, and excluded or suspended attorneys and agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Complaints and information obtained during investigations and quasi-judicial disciplinary proceedings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

35 U.S.C. 2.

PURPOSE(S):

To carry out the duties of the USPTO under 35 U.S.C. 2(b)(2)(D), in particular, the enrollment and recognition of individuals to practice as attorneys and agents before the USPTO in patent, trademark, and other non-patent matters; and to aid the enforcement of statutes and regulations regarding the conduct of attorneys and agents admitted to practice before the USPTO.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Prefatory Statement of General Routine Uses Nos. 1–5, 8–10, and 13, as found at 46 FR 63501–63502 (December 31, 1981). Dissemination of information concerning the complaint, investigation, or disciplinary proceeding may be made to the complainant and to persons who can reasonably be expected to provide information needed in connection with the complaint, investigation, or disciplinary proceeding. Notice of filing of a disciplinary complaint may be publicly disclosed. Upon a final order reprimanding, suspending, or excluding an attorney or agent, the records in this system may be publicly disclosed.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, microfilm, and machine-readable storage media.

RETRIEVABILITY:

Filed alphabetically by name or registration number. Summary of records maintained in a searchable database available only to authorized staff members of the Office of Enrollment and Discipline.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access. Electronic files are stored in secured premises with access limited to those whose official duties require access. The electronic files are password protected.

RETENTION AND DISPOSAL:

Records retention and disposal is in accordance with the unit's Record Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Enrollment and Discipline, United States Patent and Trademark Office, Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313–1450.

NOTIFICATION PROCEDURE:

Information may be obtained from the Director, Office of Enrollment and Discipline, United States Patent and Trademark Office, Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313–1450. Requester should provide name, address, date of application, and record sought, pursuant to the inquiry provisions appearing in 37 CFR Part 102 Subpart B.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The rules for access, for contesting contents, and for appealing initial determinations by the individual concerned appear in 37 CFR Part 102 Subpart B.

RECORD SOURCE CATEGORIES:

Subject individuals, clients of same, registered attorneys and agents, witnesses in disciplinary proceedings, court opinions, and individuals furnishing information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(2), all investigatory materials in the record which meet the criteria in 5 U.S.C. 552a(k)(2) are exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations because of the necessity to exempt this information and material in order to accomplish the law enforcement function of the agency, to prevent subjects of investigations from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources,

to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel.

Dated: November 9, 2005.

Susan K. Brown,

Records Officer, USPTO, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division.

[FR Doc. 05–22717 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Commercial Availability Request under the African Growth and Opportunity Act (AGOA)

November 14, 2005.

AGENCY: Committee for the Implementation of Textile Agreements (CITA)

ACTION: Request for public comments concerning a request for a determination that certain 100 percent nylon flat filament yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA.

SUMMARY: On November 9, 2005 the Chairman of CITA received a petition from Shibani Inwear alleging that certain 100 percent nylon flat filament yarn, classified in subheading 5402.41.9040 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petition requests that certain knit apparel articles made of such yarn be eligible for preferential treatment under the AGOA. CITA hereby solicits public comments on this request, in particular with regard to whether such fabrics can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by December 1, 2005 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, 14th and Constitution Avenue, N.W. Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Anna Flaaten, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 112(b)(5)(B) of the AGOA; Presidential Proclamation 7350 of October 2, 2000; Section 1 of Executive Order No. 13191 of January 17, 2001.

BACKGROUND:

The AGOA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns and fabrics formed in the United States or a beneficiary country. The AGOA also provides for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary countries from fabric or yarn that is not formed in the United States, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. (66 FR 13502).

On November 9, 2005 the Chairman of CITA received a petition from Shibani Inwear alleging that certain nylon 66, fully drawn flat filament yarn designated 156/71 Strata, classified in HTSUS subheading 5402.41.9040, for use in certain knit apparel articles, cannot be supplied by the domestic industry in commercial quantities in a timely manner. This petition is requesting quota- and duty-free treatment under the AGOA for apparel articles that are both cut and sewn or knit-to-shape in one or more AGOA beneficiary countries from such yarns.

This petition further specifies that the yarn required is nylon 66 ''fully drawn flat yarn'' (FDY) designated 156/71 Strata. According to the petition, the yarn count is 156 decitex (140 denier) with 71 filaments. Out of the total number of filaments, 51 are trilobal in cross section with the remaining 20 round in cross section. The petitioner asserts that a garment knit of such yarn reflects a unique subtle luster due to light reflectance of the different cross sections of the filament components. The petitioner intends to make garments classified under HTSUS provisions 6109.90.10.65 and 6108.22.90.20, of such yarn.

CITA is soliciting public comments regarding this request, particularly with respect to whether this yarn can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other yarns that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for this yarn for purposes of the intended use. Comments must be received no later than December 1, 2005. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that this yarn can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the yarn stating that it produces the yarn that is the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked ''business confidential'' from disclosure to the full extent permitted by law. CITA generally considers specific details, such as quantities and lead times for providing the subject product as business confidential. However, information such as the names of domestic manufacturers who were contacted, questions concerning the capability to manufacture the subject product, and the responses thereto should be available for public review to ensure proper public participation in the process. If this is not possible, an explanation of the necessity for treating such information as business confidential must be provided. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 05–22820 Filed 11–14–05; 3:02 pm]

BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Secretary, DoD.

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of Equal Employment Opportunity of the National Security Agency announces a proposed new public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration to be given to all comments received by January 17, 2005.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Department of Defense, National Security Agency, Suite 6251, ATTN: Anita R. Vann, Fort George G. Meade, MD 20755–6000.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call the National Security Agency, Office of Equal Employment Opportunity at 301–688–7592.

Title; Associated Form; and OMB Number: Background Survey Questionnaire; NSA Form XXX; OMB Number 0704–TBD.

Needs and Uses: The information collection requirement is necessary to obtain and record pertinent information to determine if our recruitment efforts are reaching all segments of the country, as required by Federal law. This is vital information that is not available from any other source.

Affected Public: Individuals or households.

Annual Burden Hours: 17,500.

Number of Respondents: 2,500.

Responses Per Respondent: 1.

Average Burden Per Response: 8 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are members of the general public with diverse backgrounds, educational levels, and skills that pursue employment with the National Security Agency. The information will be used to determine if our recruitment efforts are reaching all segments of the country, as required by Federal law. The information collected is not available from any other sources. The vital information can only be obtained directly from the applicant. The information is not released to the panel rating the application, to selection officials, to anyone else who can affect the application, or to the public.

Dated: September 8, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 05–22680 Filed 11–15–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Notice of availability for the Draft Environmental Impact Statement for the San Juan Creek Watershed/ Western San Mateo Creek Watershed Special Area Management Plan (SAMP), Orange County, CA

AGENCY: Department of Defense, Department of the Army, Corps of Engineers, Los Angeles District Regulatory Branch.

ACTION: Notice of availability for a Draft EIS.

SUMMARY: The U.S. Army Corps of Engineers, Regulatory Branch has completed a Draft EIS for the San Juan Creek Watershed/Western San Mateo Creek Watershed Special Area Management Plan (SAMP). The San Juan Creek Watershed/Western San Mateo Creek Watershed SAMP establishes three alternative permitting procedures that balance aquatic resource protection and reasonable economic development for the San Juan Creek Watershed and Western San Mateo Creed Watershed.

DATES: Written comments received by January 16, 2006, will be considered by the Corps in decision making for the Final EIS. The public hearing for the Draft EIS will be held on December 6, 2005 at the City of San Juan Capistrano Center Community Center at 25925 Camino del Avion, San Juan Capistrano.

FOR FURTHER INFORMATION CONTACT: Mr. Jae Chung, Project Manager, Regulatory Branch, U.S. Army Corps of Engineers, P.O. Box 532711, Los Angeles, California 90053–2325, (213) 452–3292, *yong.j.chung@usace.army.mil.*

SUPPLEMENTARY INFORMATION: Under section 404 of the Clean Water Act, the Corps is authorized to issue permits for activities that discharge dredged and/or fill materials into waters of the U.S., including wetlands, for roads, developments, utilities, and other activities. For the San Juan Creek and Western San Mateo Creek Watersheds, the Corps is proposing a watershed-based SAMP to balance aquatic resource protection and reasonable economic development. The SAMP is an improvement over the current incremental case-by-case approach, which does a less effective job of taking a watershed perspective of aquatic resources and considering the needs of future permit applicants. The SAMP involves characterizing aquatic resource conditions and processes through the watershed, establishing alternative permitting procedures more appropriate for the given aquatic resources in the watershed, and developing a coordinated aquatic resources management framework.

The Draft EIS is available to the public at the reference desks at the following local libraries: Mission Viejo Library, 100 Civic Center, Mission Viejo, CA 92691; San Clemente Library, 242 Avenida Del Mar, San Clemente, CA 92672; Laguna Hills Library, 25555 Alicia Parkway, Laguna Hills, CA 92653; Laguna Niguel Library, 30341 Crown Valley Parkway, Laguna Niguel, CA 92656; San Juan Capistrano Library, 31495 El Camino Real, San Juan Capistrano, CA 92675; Rancho Santa Margarita Library, 30902 La Promesa, Rancho Santa Margarita, CA 92688; and Dana Point Library, 33841 Niguel Road, Laguna Niguel, CA 92656. Information on obtaining electronic copies of the Draft EIS is available by phoning or mailing the contact person or by visiting *http://www.spl.usace.army.mil/samp/sanjuancreeksamp.htm.*

Alex C. Dornstauder,

Colonel, US Army, District Engineer.

[FR Doc. 05–22718 Filed 11–15–05; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Hearings for a Draft Supplemental Environmental Impact Statement for the Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) Sonar

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Department of the Navy (Navy) has prepared and filed with the U.S. Environmental Protection Agency a Draft Supplemental Environmental Impact Statement (Draft SEIS) to provide supplemental analyses for the Navy's employment of Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) sonar systems. In accordance with NEPA and its implementing regulations, this notice announces the dates and locations of public hearings.

DATES: Public hearing dates are as follows:

1. Thursday, December 1, 2005, 9 a.m. to 11 a.m., Washington, DC.

2. Saturday, December 3, 2005, 1 p.m. to 3 p.m., San Diego, CA.

3. Monday, December 5, 2005, 7 p.m. to 9 p.m., Honolulu, HI.

ADDRESSES: Public hearing locations are as follows:

1. Washington, DC—Navy Memorial, The President's Room, 701 Pennsylvania Ave, NW., Washington, DC 20004–2608.

2. San Diego, CA—San Diego Aircraft Carrier Museum–USS MIDWAY, The Wardroom, 910 N. Harbor Drive, San Diego, CA 92101. Note: Separate entrance provided; no fee required.

3. Honolulu, HI—University of Hawaii at Manoa, Campus Center, 2465 Campus Rd, Honolulu, HI 96822.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Skrupky, telephone 703–465–8404; Fax 703–465–8420.

SUPPLEMENTARY INFORMATION: The proposed action is the Navy's employment of up to four SURTASS LFA sonar systems in the oceanic areas of the Pacific, Atlantic, and Indian oceans, and the Mediterranean Sea. The purposes of this supplemental analysis are to respond to deficiencies noted by the U.S. District Court of the Northern District of California's August 2003 Opinion and Order; include analysis of potential system upgrades; provide necessary information for compliance under the Marine Mammal Protection Act as amended; and provide additional information and analyses pertinent to the proposed action.

The Draft SEIS provides an analysis of the proposed alternatives for the employment of SURTASS LFA sonar. In addition to the No Action alternative, four alternatives were analyzed to satisfy the Court's findings and to determine the potential effects of changes to the proposed action. These alternatives include coastline standoff restrictions of 22 and 46 kilometers (12 and 25 nautical miles), seasonal variations, and additional offshore biologically important areas.

The Draft SEIS has been distributed to various Federal, state, and local agencies, as well as other interested individuals and organizations. In addition, copies of the Draft SEIS have been distributed to the following libraries for public review:

1. Los Angeles Public Library, Malabar Branch, 2801 Wabash Ave, Los Angeles, CA 90033.

2. San Diego Public Library, 820 E St, San Diego, CA 92101–6478.

3. California State Library, Sutro Library, 480 Winston Drive, San Francisco, CA 94132.

4. San Francisco Public Library, 100 Larkin St (at Grove), San Francisco, CA 94102.

5. Hawaii Documents Center, Hawaii State Library, 478 South King St, Honolulu, HI 96813.

6. Kaneohe Public Library, 45–829 Kamehameha Highway, Kaneohe, HI 96744.

7. Hilo Public Library, 300 Waianuenue Ave, Hilo, HI 96720.

8. Wailuku Public Library, 251 High St, Wailuku, HI 96793.

9. Lihue Public Library, 4344 Hardy St, Lihue, HI 96766.

10. Boston Public Library, 700 Boylston St, Copley Square, Boston, MA 02116.

11. Norfolk Public Library, Kirn Memorial Library, 301 East City Hall Ave, Norfolk, VA 23510.

12. Virginia Beach Public Library, 4100 Virginia Beach Blvd, Virginia Beach, VA 23452.

13. Seattle Public Library, 1000 Fourth Ave, Seattle, WA 98104.

14. Martin Luther King Memorial Library, 901 G St, NW., Washington, DC 20001.

An electronic copy of the Draft SEIS is also available for public viewing and download at: *http://www.surtass-lfa-eis.com/.* Single copies of the Draft SEIS and Executive Summary are available upon request by contacting: SURTASS LFA Sonar EIS Program Manager, 4100 Fairfax Drive, Ste 730, Arlington, VA 22203; or E-Mail: *eisteam@mindspring.com.*

Federal, state, and local agencies and interested parties are invited and urged to be present or represented at the hearing. Written comments can be submitted at the public hearings or mailed to: SURTASS LFA Sonar EIS Program Manager, 4100 Fairfax Drive, Ste 730, Arlington, VA 22203; or E-Mail: *eisteam@mindspring.com.* Oral statements will be heard and transcribed by a stenographer; however, to ensure the accuracy of the record, all statements should be submitted in writing. All statements, both oral and written, will become part of the public record on the Draft SEIS and will be addressed in the Final Supplemental Environmental Impact Statement (Final SEIS). Equal weight will be given to both oral and written statements.

In the interest of available time, and to ensure all who wish to give an oral statement have the opportunity to do so, each speaker's comments will be limited to three (3) minutes. If a longer statement is to be presented, it should be summarized at the public hearing and the full text submitted in writing either at the hearing or mailed to: SURTASS LFA Sonar EIS Program Manager, 4100 Fairfax Drive, Ste 730, Arlington, VA 22203; or E-Mail: *eisteam@mindspring.com.*

All written comments must be postmarked by Tuesday, December 27, 2005, to ensure that they become part of the official record. All comments will be addressed in the Final SEIS.

Dated: November 10, 2005.

Eric McDonald,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 05–22709 Filed 11–15–05; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Hearings for a Draft Overseas Environmental Impact Statement/Environmental Impact Statement for the Undersea Warfare Training Range; Correction

AGENCY: Department of Navy, DOD.

ACTION: Notice, correction.

SUMMARY: The Department of the Navy published a document in the **Federal Register** of October 28, 2005, concerning public hearings on a Draft Overseas Environmental Impact Statement/ Environmental Impact Statement for the Undersea Warfare Training Range. The

document contained an incorrect address.

FOR FURTHER INFORMATION CONTACT: Mr. Keith Jenkins, 757–322–4046.

Correction

In the **Federal Register** of October 28, 2005, in FR Doc. 70–208, on page 62103, in the first column, correct the section of the **ADDRESSES** caption to read:

3. Jacksonville—Wilson Center for the Arts, Florida Community College, Jacksonville South Campus, 11901 Beach Boulevard, Jacksonville, FL 32246.

Dated: November 10, 2005.

Eric McDonald,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 05–22708 Filed 11–15–05; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 17, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: November 8, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: Revision.
Title: School Survey on Crime and Safety: 2006 (SSOCS: 2006).
Frequency: One time.
Affected Public: State, local, or tribal government, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden:
Responses: 2,550.
Burden Hours: 2,703.
Abstract: Authorized under the Education Sciences Reform Act of 2002, the School Survey on Crime and Safety: 2006 (SSOCS) is the only recurring federal survey which collects detailed information on crime and safety from the public school principals' perspective. The survey collects information on frequency and types of crimes at schools and disciplinary actions; information about perceptions of disciplinary problems in school; and a description of school policies and programs concerning crime and safety.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2934. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–22643 Filed 11–15–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 17, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: November 8, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Revision.
Title: Federal Direct Stafford/Ford Loan and Federal Direct Unsubsidized Stafford/Ford Loan Master Promissory Note.
Frequency: On occasion.
Affected Public: Individuals or household.
Reporting and Recordkeeping Hour Burden:
Responses: 723,650.
Burden Hours: 361,825.
Abstract: This form is the means by which a student borrower agrees to repay a Federal Direct Stafford/Ford Loan and/or a Federal Direct Unsubsidized Stafford/Ford Loan.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2935. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joe Schubart at his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–22644 Filed 11–15–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 17, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: November 9, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Planning, Evaluation and Policy Development

Type of Review: Extension.
Title: Longitudinal Analysis of Comprehensive School Reform Implementation and Outcomes (LACIO).
Frequency: Annually.
Affected Public:
State, Local, or Tribal Government, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden:
Responses: 5,425.
Burden Hours: 3,247.
Abstract: This evaluation assesses the accomplishments of the CSR program in implementing school reform and thereby improving student achievement. The evaluation also makes a preliminary assessment of the conditions influencing the sustainability of reforms once federal CSR funding ends. The evaluation uses a variety of data sources to understand the complex interplay of state policies, school districts, educational support, and CSR school conditions affecting CSR implementation and outcomes. The major evaluation questions are: (1) To what extent have CSR-supported schools made gains on state assessments in comparison to gains for schools in the same state with similar characteristics; (2) How effective is CSR support for reform; (3) How have district policies and state policies affected CSR implementation and comprehensive school reform; (4) What implications can be drawn from CSR implementation and outcomes for reform in Title I schoolwide; and (5) How effective are various school reform activities in secondary schools, and to what extent can school progress be linked to comprehensive school reform. A mixed method approach will be used to collect appropriate data for addressing each evaluation question. The methods include mail surveys of 500 CSR program and non-CSR program schools, online surveys of 50 states and 65 school districts, and case studies of 40 ''sites'' to produce an understanding of the dynamic of the actual relationships among school, district, and state actions, policies, and practices (each ''site'' consists of a CSR school and matched comparison school as well as the district, state, and support infrastructure in which the schools operate). Evaluators will be able to link information from these various sources

in order to provide policymakers and other stakeholders with coherent findings.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2938. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Katrina Ingalls at her e-mail address *Katrina.Ingalls@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–22645 Filed 11–15–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 17, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.,* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: November 9, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Revision.

Title: William D. Ford Federal Direct Loan Program Statutory Forbearance Forms.

Frequency: On Occasion.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 5,115.

Burden Hours: 1,023.

Abstract: Borrowers who receive loans through the William D. Ford Federal Direct Loan Program will use this form to agree to statutory forbearances on their loans.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2936. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–22733 Filed 11–15–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 16, 2005.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the

following: (1) Type of review requested, *e.g.,* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: November 9, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: Reinstatement.

Title: National Assessment of Adult Literacy.

Frequency: One time.

Affected Public: Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 250.

Burden Hours: 1,000.

Abstract: As part of completion of the National Assessment of Adult Literacy 1992 work, this study is a field test of a real-world tasks study. The information gathered through this data collection effort will be used to ensure that the assessment reflects a suitable and appropriate range of authentic materials and tasks.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2822. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Katrina Ingalls at her e-mail address *Katrina.Ingalls@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–22734 Filed 11–15–05; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Publication of State Plan Pursuant to the Help America Vote Act

AGENCY: Election Assistance Commission (EAC).

ACTION: Notice.

SUMMARY: Pursuant to sections 254(a)(11)(A) and 255(b) of the Help America Vote Act (HAVA), Public Law 107–252, the U.S. Election Assistance Commission (EAC) hereby causes to be published in the **Federal Register** material changes to the HAVA State plan previously submitted by Michigan.

DATES: This notice is effective upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone 202–566–3100 or 1–866–747–1471 (toll-free).

Submit Comments: Any comments regarding the plan published herewith should be made in writing to the election official of the individual State at the address listed below.

SUPPLEMENTARY INFORMATION: On March 24, 2004, the U.S. Election Assistance Commission published in the **Federal Register** the original HAVA State plans filed by the fifty States, the District of Columbia and the Territories of American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands. 69 FR 14002. HAVA anticipated that States, Territories and the District of Columbia would change or update their plans from time to time pursuant to HAVA section 254(a)(11) through (13). HAVA sections 254(a)(11)(A) and 255 require EAC to publish such updates.

The current submission from Michigan amends the budget of the previous State plan to explain how the State will utilize approximately $18.3 million in FY 2004 requirements payments, which were not included in the original plan, and to reallocate funds among the election administration programs presented in the original plan. The amendment also clarifies the State's intention to add or to develop new capabilities to improve its statewide voter registration system, provisional ballots, voter education and election training programs, and other applications to improve the administration of Federal elections. In accordance with HAVA section 254(a)(12), the submission also provides information on how the State succeeded in carrying out the previous State plan.

Upon the expiration of thirty days from November 16, 2005, Michigan will be eligible to implement the material changes addressed in the plan that is published herein, in accordance with HAVA section 254(a)(11)(C). At that time, in accordance with HAVA section 253(d), Michigan may file a statement of certification to obtain the balance of its fiscal year 2004 requirements payment allocation. This statement of certification must confirm that the State is in compliance with all of the requirements referred to in HAVA section 253(b) and must be provided to the Election Assistance Commission in order for the State to receive a requirements payment under HAVA Title II, Subtitle D.

EAC notes that the plan published herein has already met the notice and comment requirements of HAVA section 256, as required by HAVA section 254(a)(11)(B). EAC wishes to acknowledge the effort that went into revising the State plan and encourages further public comment, in writing, to the State election official listed below.

State Election Official

Michigan

Rayan Anastor, Michigan Bureau of Elections, 430 W. Allegan St., 1st Floor, Lansing, MI 48918, Phone: 517–373–2540, Fax: 517–241–2784, E-mail: *elections@michigan.gov*.

Thank you for your interest in improving the voting process in America.

Dated: November 9, 2005.

Gracia M. Hillman,

Chair, Election Assistance Commission.

BILLING CODE 6820–KF–P

STATE OF MICHIGAN
TERRI LYNN LAND, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

November 2, 2005

Ms. Gracia Hillman, Chair
U.S. Election Assistance Commission
1225 New York Ave, NW - Ste 1100
Washington, DC 20005

Dear Ms. Hillman:

In accordance with section 255 of the Help America Vote Act of 2002 (HAVA), I am pleased to file Michigan's Revised HAVA State Plan with the Election Assistance Commission (EAC) for publication in the *Federal Register*. Michigan's Revised State Plan is comprised of material revisions contained within Elements 1, 3, 6 and 12. All additional Elements contain either non-material changes or no changes.

After consultation with the EAC staff, the State of Michigan has elected not to include the non-material change and the no change elements for publication in the *Federal Register* as they were deemed unnecessary under HAVA. Instead, we direct the EAC and members of the public to the Michigan Department of State's website (www.michigan.gov/hava) to view the complete amended Michigan State Plan.

As required by section 254(a)(12) of HAVA, Element 12, as amended, describes the material changes to the Michigan State Plan filed in 2003, and notes the progress the State of Michigan has made in regards to the Michigan State Plan filed with the Federal Election Commission on December 19, 2003.

The 2005 Amendments to Michigan's State Plan were developed in accordance with section 255 of HAVA and the requirements for public notice and comment prescribed by section 256 of HAVA.

On behalf of Secretary of State Terri Lynn Land, I thank the Commission for its assistance. I look forward to our continued collaboration to fully implement HAVA.

Sincerely,

Christopher M. Thomas
Director of Elections

pc: Secretary of State Terri Lynn Land

BUREAU OF ELECTIONS
TREASURY BUILDING • 1ST FLOOR • 430 W. ALLEGAN • LANSING, MICHIGAN 48918
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HELP AMERICA VOTE ACT

Michigan's STATE PLAN

Revised as of September 27, 2005

As required by Public Law 107-252,
HELP AMERICA VOTE ACT OF 2002

TERRI LYNN LAND
Michigan Secretary of State
Lansing, Michigan 48901-0726
(517) 373-2540

September 27, 2005

STATE OF MICHIGAN
TERRI LYNN LAND, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

Dear Michigan voter:

I am pleased to present Michigan's final State Plan for implementing the federal Help America Vote Act (HAVA) of 2002.

HAVA requires state and local governments to upgrade elections processes and systems. Every Michigan voter and election administrator has a stake in these enhancements. The changes will ensure the integrity of our voter registration process, increase privacy and independence for voters with disabilities, improve access for military voters stationed overseas, upgrade systems that support our elections process, and provide residents with better information on how to vote.

Equally important, HAVA provides critical federal funding to help implement these improvements. Michigan is fortunate it can build upon its record of election excellence despite lean budgetary times.

To access its share of the $1.5 billion authorized by Congress, each state must develop and submit a State Plan outlining how it will comply with the requirements. The completion of Michigan's plan caps a 9-month process that began with my appointment of a 30-member advisory committee. This diverse group of dedicated residents sought extensive public input and drafted a plan that truly reflects Michigan's voice. We are grateful for their service.

HAVA is without question the most sweeping federal voting reform measure in decades. Its successful implementation demands well-trained, dedicated election administrators who fulfill their responsibilities with the utmost integrity. We are fortunate to have administrators of this caliber at all levels of Michigan's election process. State and local election officials must forge a new level of cooperation to ensure a seamless integration of these comprehensive reforms. I have no doubt we will meet this challenge.

Please take time to review Michigan's plan. You can find it on the HAVA page of the Department of State Web site at www. Michigan.gov/hava. Printed copies are also being sent to each county clerk.

I look forward to continuing to work with you as we ensure Michigan's status as a national leader in election integrity, efficiency and innovation.

Sincerely,

Terri Land

Terri Lynn Land
Secretary of State

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I. Title III Requirements and Other Activities

How the State will use the requirements payment to meet the requirements of title III, and, if applicable under section 251(b)(2), to carry out other activities to improve the administration of elections. -- HAVA §254 (a)(1)

Section 301(a): Voting System Standards Requirements

There are five different types of balloting methods employed throughout the United States to administer elections: (1) optical scan voting systems, (2) direct recording electronic (DRE) voting systems, (3) punch card voting systems, (4) mechanical lever voting machines, and (5) paper ballots. Michigan employs all five types. Within the optical scan, DRE and punch card balloting method categories, there is a certain degree of variety as the equipment involved is marketed and sold under different brand names by private sector firms. Mechanical lever voting machines were similarly produced and sold by a number of different manufacturers throughout the years.

By the mid-1990s, the unprecedented acceleration in the development and introduction of new voting systems in the State had created a series of issues that required a legislative response. Most critically, Michigan election law needed updating to ensure the comprehensive and meaningful evaluation of the technology built into the systems. In answer, PA 583 of 1996, an amendment to Michigan election law was enacted to:

- Stipulate all new voting systems used in Michigan be approved by an independent testing authority (ITA) to ensure the system's conformance with all federal voting system standards.
- Require vendors seeking approval of *a new voting system* to file a $1,500 application fee. Require vendors seeking approval of *a voting system upgrade* to file a $500 application fee.
- Require voting system vendors to submit on an ongoing basis: (1) information on other states using the system, (2) performance evaluations produced by any state or local governmental unit, (3) copies of all standard contracts and maintenance agreements, and (4) all changes made in standard contracts and maintenance agreements.

- Direct the Board of State Canvassers to field test under "simulated election day conditions" all new voting equipment as a part of the certification process. Require the vendor to pay for the cost of the testing.
- Require all governmental units to notify the Secretary of State within thirty (30) days before purchasing a new voting system. Require the Secretary of State to forward to any governmental unit providing such notification all information concerning the operation of the voting system in Michigan or any other state.
- Grant the Board of State Canvassers the authority to "decertify" voting systems.

As noted in the Introduction, Michigan's cities and townships are currently in the process of migrating from mechanical voting machines, paper ballots and punch card voting systems that use "central count" tabulation technology and are moving toward optical scan voting systems that use "precinct based" tabulation technology.

Jurisdictions of all sizes are participating in the migration from Michigan's largest cities (e.g., City of Detroit, Wayne County: 606,900 registered voters) to Michigan's smallest townships (e.g., Warner Township, Antrim County: 225 registered voters). Since the 1998 election cycle, cities and townships containing *over 1.5 million Michigan voters* have replaced their voting machines, paper ballots and punch card voting systems with updated optical scan voting technology.

Despite the fact that many cities and townships in the State have been quick to embrace the new voting equipment technology marketed in Michigan over the last 12 years, a sizable number of jurisdictions continue to use outdated equipment to administer elections.

As recently as the November 5, 2002 general election, lever style voting machines were used in 445 of Michigan's 5,305 precincts (8.4%); paper ballots were used in 98 precincts (1.8%); and "central count" punch card systems were used in 866 precincts (16%). The resulting "technology gap" has created significant disparities in the measures implemented at the precinct level to protect voters from spoiling their ballots and losing votes.

To address the emergent "technology gap" and associated concerns noted in the Introduction, the Michigan Legislature adopted legislation in 2002 – calling for the implementation of a statewide, uniform voting system (PA 91 of 2002).

The legislation directs the Secretary of State to convene an "advisory committee" for the purpose of selecting a "uniform voting system" for the State if and when funds are appropriated for selecting, acquiring and implementing a statewide, uniform voting system. It further directs the Secretary of State to proceed with the implementation of a statewide, uniform voting system after the selection of the voting system best suited for the State's needs.

The use of the funds available under the Help America Vote Act and how to proceed with the implementation of a statewide, uniform voting system was a primary topic discussed by the members of the Secretary of State's State Plan Advisory Committee. The committee's activities included the following:

- On April 17, 2003 the Secretary of State hosted a "Voting Equipment Technology Fair" in Lansing. It provided the public, members of the State Plan Advisory Committee, media and all interested parties with the opportunity to view the most recent voting technology developed by manufacturers throughout the country.
- The requirements of Public Act 91 of 2002 were reviewed and discussed.
- Optical scan, punch card and direct recording electronic (DRE) voting systems were demonstrated by local clerks who employ the systems.
- Presentations on the relative advantages and disadvantages of optical scan, punch card, and direct recording electronic (DRE) voting systems under recount conditions were offered.
- Public testimony on the implementation of a statewide, uniform voting system was accepted.

On June 20, 2003, the Secretary of State convened the State Plan Advisory Committee and obtained the members' agreement to also serve on a special advisory committee. The special advisory committee, a requirement under PA 91 of 2002, provided input on the selection of a statewide, uniform voting system. After receiving the committee's input, the Secretary of State announced on August 4, 2003, that optical scan voting equipment using "precinct based" tabulation technology had been selected for the implementation of Michigan's statewide, uniform voting system.

The implementation of PA 91 of 2002 in conjunction with the federal funding Michigan is eligible to receive provides the State with an excellent framework for ensuring timely compliance with Section 301 of the Help America Vote Act including all accessibility requirements. The following actions are planned:

- **Assessment of the voting system procurement options.**
- **Creation of a project management framework to guide the implementation of the statewide voting system and a successful transition to the system.**
- **Procurement of needed equipment and services pursuant to Michigan's procurement laws.**
- **Delivery of the equipment to the affected jurisdictions.**
- **Development and implementation of appropriate training programs.**

In addition to the voting system requirements, Section 301(a) of the Help America Vote Act requires states to define what constitutes a legal vote for each type of voting system used.

Michigan is fully compliant with this requirement at the present time as both Michigan election law and the rules promulgated to administer electronic voting systems clearly address what is and what is not a valid vote in specific terms.

Section 302: Provisional Voting and Voting Information Requirements

The Help America Vote Act provides a "provisional" balloting process to ensure that no individual who goes to the polls to vote is turned away without having the opportunity to obtain a ballot.

Prior to the passage of the Help America Vote Act, the Michigan Legislature addressed this issue through the enactment of PA 441 of 1994, an amendment to Michigan election law that established an "affidavit" balloting process for all elections conducted in the State.

The following compares and contrasts the "affidavit" balloting process currently established in Michigan and the "provisional" balloting process provided under the Help America Vote Act:

Current Procedure ("Affidavit" Balloting Process): In an instance where (1) a voter who appears in the polls to vote cannot be found on the precinct's Qualified Voter File list, *and* (2) the voter is unable to demonstrate his or her registration status by producing a validated voter registration receipt, the voter can obtain a ballot if he or she:

(1) signs an "Affidavit of Voter Registration" affirming that he or she submitted a voter registration application through a Secretary of State branch office, a designated voter registration agency, the county clerk or the mail on or before the "close of registration" for the election at hand;

(2) provides identification to confirm his or her identity and residence within the jurisdiction and precinct where he or she has offered to vote; and

(3) completes and submits a new voter registration application.

Such voters are issued a paper, punch card or optical scan ballot. The election inspectors write the number appearing on the voter's ballot in pencil on the back of the ballot. If a punch card ballot is used, the election inspector writes the ballot number on the secrecy envelope. After writing the ballot number on the ballot, the election inspector conceals the number with tape and/or a slip of paper as directed by the election official administering the election.

After the ballot has been prepared in the above manner, the elector votes the ballot in a voting station. The ballot is then counted under routine procedure. The "Affidavit of Voter Registration" completed by the voter is forwarded to the

local clerk's office immediately after the election. Upon the receipt of the form, the clerk enters the voter in the Qualified Voter File system.

It merits emphasis that in all cases, the votes cast on a ballot issued under the above procedure are counted. If an interested party wishes to dispute the qualifications of a voter who cast a ballot under the above procedure, he or she must seek redress through the courts. (If the retrieval of the ballot is ordered by the courts, the ballot number concealed on the ballot is used to identify the ballot.) Unless a court order is obtained, a ballot cast under the above procedure cannot be retrieved for inspection or invalidated for any reason. It merits further note that if a recount is conducted, a ballot cast under the above procedure is recounted under the same procedures employed to recount any other ballots cast in the precinct. The fact that the ballot was cast under the above procedure is *not* a matter that can be questioned or disputed under the recount proceedings.

Requirements Provided Under the Help America Vote Act ("Provisional" Balloting Process): In an instance where (1) a voter who appears in the polls to vote cannot be found on the precinct's registration list, *and* (2) the voter is unable to demonstrate his or her registration status by producing a validated voter registration receipt, the voter can obtain a ballot if he or she:

(1) asserts that he or she is a "registered voter in the jurisdiction"; and

(2) executes a "written affirmation" attesting that he or she is a "registered voter in the jurisdiction" and is eligible to vote in the election.

Such voters are issued a paper, punch card or optical scan ballot. The voter then votes the ballot in a voting station. After the voter returns the ballot, it is secured in an envelope for later disposition. Here, it merits observation that a voter who executes the above referenced "written affirmation" is eligible to receive and vote a "provisional" ballot *even in an instance where the election official administering the election "asserts that the individual is not eligible to vote."*

After the polls close, any ballots issued and voted under the above procedure are forwarded to the local election official for verification. If the election official determines the individual is eligible to vote, the ballot is counted. On the other hand, if the election official determines that the individual is *not* eligible to vote, the ballot is *not* counted.

The Help America Vote Act stipulates that in any instance where voters are permitted to vote after the close of the polls pursuant to a court order or other

order, the voters must cast "provisional" ballots. "Provisional" ballots cast in such instances must be kept separate from any other "provisional" ballots cast at the election.

The Help America Vote Act further stipulates that the State must establish "a free access system" which permits any individual who casts a provisional ballot to discover whether his or her ballot was counted and, if the ballot was not counted, the reason why the ballot was invalidated.

The Help America Vote Act provides that at the time an individual casts a "provisional" ballot, the election inspectors must give the individual written instructions for accessing the above referenced information system.

As the "provisional" balloting process provided under the Help America Vote Act differs in some respects from the current "affidavit" balloting process established in Michigan, it is Michigan's intent to modify its current law and processes as necessary. Through these modifications, the State will ensure full compliance with the "provisional" balloting process provided under the Help America Vote Act, establish the required "free access system" and arrange for the distribution of instructions for obtaining information through the "free access system." The following actions are planned:

- **Development of new capabilities to improve the provisional ballots.**
- **Development of revisions to Michigan election law to authorize "provisional" balloting for all public elections. The "provisional" balloting process will supplement the current "affidavit" balloting process.**
- **Implementation of revised procedures to allow for the issuance of a "provisional" ballot in instances where the "affidavit" balloting procedure cannot be employed.**
- **Establishment of a "free access system" that any individual who casts a "provisional" ballot can use to discover whether his or her ballot was counted and, if the ballot was not counted, the reason why the ballot was invalidated.**
- **Development and implementation of a program to track and compile data on the "provisional" balloting process.**

In addition to the "provisional" balloting process, Section 302 of the Help America Vote Act stipulates that the information listed below must be posted in the polls whenever a federal election is conducted:

- A sample ballot.
- The date of the election and the hours the polls will remain open.
- Voting instructions.
- Instructions on voting a "provisional" ballot.
- The identification requirements that apply to voters who register to vote by mail.
- General information on voting rights including information on the right of an individual to cast a "provisional" ballot and instructions on how to contact the appropriate officials regarding alleged voting rights violations.
- General information on the laws that prohibit fraud and misrepresentation.

Michigan currently provides informational posters for display in the polls on Election Day. The Michigan Department of State's Bureau of Elections intends to modify the information provided on these posters as necessary to ensure compliance with the Help America Vote Act. The posters will be redesigned to prominently list pertinent information and clearly state "what every voter should know."

Section 303: Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail

As noted in the Introduction, the Michigan Legislature adopted legislation in 1994 that required the Secretary of State to establish a statewide Qualified Voter File (QVF) system (PA 441 of 1994). Placed in operation in 1998, the QVF is a distributed database that ties Michigan's city and township clerks to a fully automated, interactive statewide voter registration file. It provides a wide variety of significant advantages including the elimination of all duplicate voter registration records in the system; the streamlining of the state's voter registration cancellation process; the elimination of registration forwarding errors; and the elimination of duplicative voter registration processing tasks.

The QVF was populated with every registered elector appearing in the Department of State's driver's license/personal identification card file and the

voter registration files held by the state's city and township clerks. Data on the voters is maintained on a UNIX-based computer located in Lansing.

The system also offers Michigan's election officials a full array of election management features including components created to assist with absent voter ballot processing; petition and candidate tracking; election planning; and election inspector tracking. The election management components, designed in consultation with a special task force of county and local election officials, have introduced a new level of convenience to the administration of elections in Michigan. The election management components have also standardized many of the election-related forms and procedures used throughout the State. Proper and consistent application of the state and federal laws that govern the voter registration process is essential given the various disenfranchisement protections provided under Michigan election law and the National Voter Registration Act of 1993.

Michigan's 83 county clerks and the clerks of all local jurisdictions with a voting age population over 5,000 were provided with the hardware and software needed to establish a direct link with the QVF. Smaller cities and townships (i.e., those with a voting age population under 5,000) have either purchased the hardware and software needed for a direct link with the QVF or access the QVF through their local county clerk's office.

The QVF system comprises three primary components:

Lansing File Server: The heart of the QVF system is the file server located in Lansing, the state capital. The file server holds the voter registration database for the entire state. It also holds all system software (QVF application software and Oracle database software). The file server exchanges information with the driver file database (new registrations originating in branch offices) through a series of "server processes" (automated computer programs). The file server exchanges information with local system users through a data replication process.

To facilitate the exchange of data with the State's driver file database, every voter registration record is identified with the voter's driver license number or personal identification card number. (If the voter does not hold a driver license or personal identification card, a similar unique number is assigned to the voter's registration record.)

County/Local QVF Installations: All of Michigan's 83 counties and 236 of Michigan's largest cities and townships (voting age population over 5,000) were

provided with QVF installations at state expense. At their own expense, one hundred and forty-nine (149) additional cities and townships opted to purchase QVF systems.

Telecommunications Network: The QVF system uses the Internet as its telecommunications network. Each QVF jurisdiction was provided with an Internet account (Merit is the Internet provider) and an Internet browser that includes e-mail and web searching capabilities. The data replication process is automated and operates on a daily basis. Local QVF users may also establish an Internet connection if they wish to initiate a manual replication. Replication updates the Lansing server with new information provided by the local jurisdiction and updates the local jurisdiction with new information provided by the file server (usually branch office transactions). An average replication takes 10 to 15 minutes.

The Michigan Department of State's Bureau of Elections maintains a Help Desk to assist the county and local clerks throughout the State with any questions they have regarding the operation of the QVF. The Help Desk offers assistance in the following areas:

Replications: The replication process involves the transfer of data between the QVF server in Lansing and the remote QVF installations throughout the State. If there is a problem with the replication process, it generally stems from a user error, an equipment failure or a network failure. The Help Desk is able to trace such problems, find the source and offer corrective measures.

Equipment Problems: The Help Desk troubleshoots all equipment-related problems. In some cases, a contract vendor is sent to the site. In other cases, the Help Desk staff members pick up the equipment for in-house problem solving.

Training: The Help Desk provides training and on-site consultations to QVF users throughout the State. The Help Desk is also responsible for updating all user guides and training materials.

Software Support: The Help Desk offers QVF users advice and instruction on using the QVF software and documents requests for QVF software enhancements. The majority of all inquiries received by the Help Desk involve questions over the operation and functions of the QVF software.

While Michigan's Qualified Voter File system is in substantial compliance with the Help America Vote Act's requirements for a centrally administered

statewide voter registration system, the following actions are planned to enhance the performance of the system:

- **Exploration of the potential for electronically exchanging data with Michigan's Family Independence Agency.**
- **Exploration of the potential for providing Michigan's smaller jurisdictions with additional methods of electronically accessing the QVF system.**
- **Exploration of new technology to expand the street index functionality for the QVF system (I.e. – GIS Mapping Technology).**
- **Use digitized signatures in the QVF database which are already on the department's driver's license file.**
- **Development of a process that permits the QVF system to electronically remove voters who have not responded to notices pursuant to the National Voter Registration Act. (The review of the action by clerks will continue to be a requirement.)**
- **Development of new capabilities that permit the QVF system to store the last four digits of a voter's Social Security Number.**
- **Development of revisions to Michigan election law to provide for any additional processes needed to electronically verify new registrants who register to vote by mail.**
- **Establishment of an agreement with the Commissioner of Social Security to provide for the verification of voter identification information.**
- **Development of new capabilities to improve the computerized statewide voter registration system.**

Section 303 of the Help America Vote Act further addresses the identification of voters who register to vote by mail and the contents of mail-in voter registration application forms as indicated below:

- Stipulates that an individual who (1) submits a mail-in voter registration form, *and* (2) has never participated in a federal election conducted in the state must provide an identification document with the mail-in voter registration form. Provides that if the applicant does not submit an acceptable identification document with the mail-in voter registration form,

he or she must produce identification *the first time* he or she attends the polls to participate in a federal election. It further provides that if such a voter wishes to cast an absentee ballot, he or she must submit an acceptable identification document when returning the absentee ballot.

- Provides that if a voter subject to the above identification requirements does not produce or submit an acceptable identification document, he or she may cast a "provisional" ballot in the polls or a "provisional" absentee ballot as desired.
- Provides that the above voter identification requirements are waived if (1) the voter registration applicant enters his or her driver license number or the last four digits of his or her Social Security Number on the mail-in voter registration form, and (2) the state or local election official has a program in place which permits the identification of the voter through the comparison of the entered number against another "State identification record" which bears the same number and the voter registration applicant's name and date of birth.
- Directs the Secretary of State to include the following two questions on the mail-in voter registration application form with "yes" and "no" checkoff boxes: (1) "Are you a citizen of the United States of America?" and (2) "Will you be 18 years of age on or before Election Day?" It further directs the Secretary of State to include the following statement on the form: "If you checked 'no' in response to either of these questions, do not complete this form."
- Stipulates that if a voter registration applicant fails to answer the citizenship question on the mail-in voter registration application form, the registrar must notify the applicant and provide him or her with an opportunity to complete the form no later than the voter registration deadline for the next federal election.

The following actions are planned to ensure compliance with the requirements associated with the identification of voters who register to vote by mail:

- **Implementation of the identification requirements imposed on individuals who (1) submit a mail-in voter registration form, and (2) have never participated in a federal election conducted in Michigan.**

- **Establishment of procedures that permit a voter who is subject to the identification requirements to obtain a "provisional" ballot if the voter is unable to produce or submit an acceptable identification document.**
- **Modification of Michigan's Mail-In Voter Registration Application form as necessary.**
- **Development and implementation of a process that provides individuals who (1) submit a mail-in voter registration, and (2) fail to respond to the citizenship question with an opportunity to complete the form no later than the voter registration deadline established for the next federal election.**

Section 251(b)(2): Other Activities

Michigan intends to use requirements payments to fund other activities to improve the administration of elections, including, but not limited to the following:

- **Development of applications to improve the administration of federal elections.**
- **Establishment of a polling place accessibility program to ensure that all polling places in Michigan are and continue to be compliant with all applicable state and federal laws.**
- **Extension of necessary assistance to persons with limited proficiency in the English language as required by the Voting Rights Act.**
- **Implementation of a variety of voter education and outreach activities including public service announcements and voting equipment demonstrations.**
- **Development of election official and poll worker training initiatives.**

III. Voter Education, Election Official Education and Training, and Poll Worker Training

How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III. -- HAVA §254 (a) (3)

Voter Education

As voter turnouts continue to dwindle, voter education has become an increasingly important component of the elections process. At the present time, the majority of voter education efforts in Michigan for statewide and federal elections are coordinated through the Michigan Department of State's Bureau of Elections and the offices of Michigan's city and township clerks. The voter education initiatives currently in place include the following:

Citizens Guide to Voting Systems: Internet-based instructional system where voters can learn what type of voting equipment is used in their jurisdiction of residence and how it operates. The site utilizes video clips, slides, audio and printed text.

Electronic Voter Guide: Internet-based informational guide established for November general elections where voters can learn about the political parties, state level candidates and statewide ballot proposals on the ballot. Candidates and political parties are invited to post statements on the site. Candidates are also extended the opportunity to post a photograph on the site.

Voter Information Center: Internet-based informational site where voters can preview their ballot for November general elections, confirm their registration status, obtain information on the location of their polling place (including a map), link to candidate websites and obtain other election-related information.

Both the Citizens Guide to Voting Systems and the Electronic Voter Guide are linked to the Voter Information Center. The Voter Information Center, in tandem with the Citizens Guide to Voting Systems and Electronic Voter Guide, provides Michigan voters with the most comprehensive on-line election information available in the nation.

Voter Education (continued)

Secretary of State Web site: Provides dates for upcoming state and local elections, general information on the registration process, a mail-in voter registration form that can be printed for immediate use, information on obtaining an absent voter ballot and other general information on registering and participating in elections.

Local Web sites: Many counties and local jurisdictions have established Web sites that provide information on registering to vote and participating in elections.

Published Notices: All cities and townships publish a notice to announce each upcoming voter registration deadline and a notice to announce each upcoming election. As Michigan has 1,514 cities and townships, this results in the publication of over 3,000 election-related notices prior to each August primary and 3,000 additional notices prior to each November general election.

Voter Instruction Placards: Prior to each August primary and each November general election, the Secretary of State produces and distributes over 10,000 voter instruction placards for display in the polling places located throughout the state.

Ballot Proposal Information: When a statewide proposal is presented on Michigan's August primary ballot or November general election ballot, the Secretary of State produces and distributes over 10,000 informational posters on the proposals for display in the polling places. The information is also distributed to all newspapers, television stations and radio stations in the state. Information on the proposals is also distributed through the 173 Secretary of State branch offices operated and managed by the Michigan Department of State.

Assistance in the Polls: Michigan election law stipulates that all election workers appointed to serve in the polls must ask each voter if he or she would like to receive instruction on voting the ballot. To assist with the instruction, "demonstration models" are placed in each polling place. Comprehensive voting instructions are also printed on each ballot.

Voter ID Cards: Michigan's local clerks issue "Voter ID Cards" to all registrants which list their voting districts, their polling place location and a contact office for additional information.

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Absent Voter Ballot Application Distribution Lists: Many local clerks maintain lists of regular absentee voters that are used to mass mail absent voter ballot application forms prior to elections.

Registration Reminder Cards: The Secretary of State sends all Michigan citizens a birthday greeting when they reach age 18 with a reminder that they are now eligible to register and vote. The postcard directs the newly eligible voter to the mail-in voter registration application form provided on the Secretary of State's Web site.

University/College E-mails: The Secretary of State, in cooperation with the Presidents Council of State Universities of Michigan, the Association of Independent College and Universities of Michigan and the Michigan Community College Association, sends a specially developed e-mail message to all university and college students to provide them with pertinent registration and voting information.

Public Service Announcements (PSAs): The Secretary of State regularly develops PSAs on registering and voting for distribution to all media outlets in the State.

Informational Brochures: The Secretary of State prints and distributes a voter information brochure prior to every election cycle that provides concise information on registering to vote, obtaining absent voter ballots and voting in the polls.

Michigan recognizes the need to enhance its voter education programs to better inform voters and promote participation in the electoral process. In addition to the maintenance of the voter education programs detailed above, Michigan will pursue the following initiatives:

- **Development of new capabilities to improve the voter education programs.**
- **Establish a Voter Education and Outreach Fund. The fund will be used to support public and private sector programs designed to educate voters and promote electoral participation.**
- **Double the current efforts made to ensure that all voter outreach materials produced through the Department reflect and meet the needs of Michigan's diverse voting populations.**

- **Develop educational outreach initiatives designed to instruct voters on the operation of the voting equipment selected for the implementation of Michigan's uniform voting system.**
- **Coordinate voter education efforts with nonpartisan community organizations and advocacy groups committed to voter education including groups that provide services to individuals with disabilities.**
- **Encourage local jurisdictions to partner with nonpartisan community organizations and advocacy groups committed to voter education to promote voter registration and participation. Facilitate such efforts through the development and dissemination of voter outreach materials.**
- **Improve and increase public service announcements and informational materials.**
- **Expand and improve upon the use the Internet-based Voter Information Center and the voter instruction posters provided for display in the polls.**

Election Official Education

Trained, professional election officials are essential to the administration of efficient and secure elections. At the present time, the Michigan Department of State's Bureau of Elections administers a variety of mandated and discretionary training programs. These programs are designed to familiarize the State's county clerks, city clerks, and township clerks with the laws and processes that govern Michigan's elections system. Current election official training programs administered through the Bureau of Elections include the following:

Election Officials Accreditation Program: Michigan election law, MCL 168.31(j), directs the Secretary of State to establish a curriculum for comprehensive training and accreditation of all county, city, and township election officials. Participation is mandatory. To date, over 3,700 county clerks, local clerks and election assistants appointed on the county and local level have attended the accreditation program.

County Clerk Training: Michigan election law, MCL 168.33(1), directs the State Elections Director to "...conduct training schools throughout this state preceding the general November election, and preceding such other elections as the director considers advisable, for county clerks and their representatives with

respect to the conducting of elections in accordance with the election laws...." The training programs are routinely conducted every two years in advance of the November general election.

County Board of Canvasser Training: Conducted in conjunction with required County Clerk Training programs.

City/Township Clerk Training: Conducted on a regional basis prior to the August primary. All city clerks and township clerks are encouraged to attend.

New Clerk Training: Michigan election law, MCL 168.31(k), directs the Secretary of State to "Establish and require attendance by all new appointed or elected election officials at an initial course of instruction within 6 months before the date of the election." New Clerk Training is offered to new clerks on a regional basis. Participation is mandatory.

Michigan recognizes the need to enhance its training programs to better ensure that all election officials possess the training, tools and resources critical to the successful administration of elections. In addition to the maintenance of the programs detailed above, Michigan will pursue the following initiatives:

- **Development of new capabilities to improve the election training programs.**
- **Improve training and accreditation materials to promote the retention of the information.**
- **Research and implement new and innovative training delivery methods such as interactive web-based training and video teleconferencing.**
- **Develop "training partnerships" with the various clerk associations established in the State, state universities and community colleges.**
- **Establish an advisory group to review and evaluate the training programs and materials developed to train election officials.**
- **Contract with training consultants to enhance the skills of the trainers.**
- **Develop educational programs designed to instruct election officials on the operation of the voting equipment selected for the implementation of Michigan's statewide, uniform voting system.**

Poll Worker Training

Trained poll workers who have a full understanding of the laws and procedures that govern the administration of the polls on Election Day are critical to the successful conduct of elections. In view of this need, Michigan election law, MCL 168.683, directs the State's county clerks to provide the poll workers appointed in their respective counties with the training needed to perform their duties. MCL 168.683 further extends to a city or township, having a population of 10,000 or more, the option of conducting its own poll worker training if desired.

To ensure the quality of the training programs and the consistency of the instruction, Michigan election law, MCL 168.33(2), directs the State Elections Director to "... train all county, city and township clerks who are involved in the training of precinct inspectors ...." MCL 168.33(3) further directs the State Elections Director to conduct all poll worker training in counties where the county clerk has not been accredited to conduct the training programs.

The Bureau of Elections also provides a various materials and training aids to augment the materials developed at the county and local level. The training materials and aids available through the Bureau include the following:

- ***Training Outline*** – A general training outline developed for use by trainers conducting instructional programs for poll workers.
- ***Election Inspectors' Procedure Manual*** – A 24-page quick reference guide to the laws that govern the operation of polling places. Developed for use as a training aid and as a reference tool on Election Day.
- ***Training Video on the Management of Polling Places*** – Used to motivate poll workers and reinforce instruction on the state laws that govern the operation of polling places.
- ***Training Video on Accommodating the Needs of Voters Who Are Disabled*** – Used to heighten poll worker sensitivity to the needs of disabled voters.
- ***Video Exam*** – A self-administered test developed for use with the training video. Used to focus attention on the points of emphasis in the video.
- ***Technical Sheets*** – Step-by-step instructions on the operation of the various

voting systems employed in Michigan to administer elections. Developed for use as a training aid and as a reference tool on Election Day. Used by trainers to instruct poll workers on the proper administration of the voting system they will use in the polls.

- ***Voting Equipment Q & A Exercises*** – Used by trainers to reinforce instruction on the operation of the voting equipment used by the jurisdiction involved.
- ***Model Overheads*** – Suggested overheads developed for use by trainers conducting instructional programs for poll workers. Used by trainers to instruct poll workers on the proper completion of the various forms and documents which must be completed in the polls on Election Day.

Michigan recognizes the need to continually improve the training programs for poll workers to promote the efficient operation of the polls and the effective administration of the laws that govern the voting process. In addition to the poll worker training programs and services detailed above, Michigan will pursue the following initiatives:

- **Development of new capabilities to improve the election training programs.**
- **Improve the content of the "train the trainer" programs offered county, city and township clerks.**
- **Update and expand the materials provided county, city and township clerks to assist with the instruction of poll workers.**
- **Develop and produce an updated poll worker training video.**
- **Contract with training consultants to enhance the skills of the trainers.**

VI. Michigan's HAVA Budget

The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on—

(A) the costs of the activities required to be carried out to meet the requirements of Title III;

(B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and

(C) the portion of the requirements payment, which will be used to carry out other activities. -- HAVA §254(a)(6)

Title I Funds: Election Administration and the Replacement of Voting Equipment

Title I of the Help America Vote Act authorizes the General Services Administration (GSA) to administer $650 million in payments to (1) implement election administration improvements, and (2) replace punch card voting systems and lever voting machines.

Election Administration Improvements ($325 Million): States are guaranteed a minimum payment of $5 million. The remaining funds are allocated according to the state's voting age population. Michigan is eligible for approximately $9.9 million. (This $9.9 million is detailed in the Overall HAVA Compliance Budget chart on page 35.) In addition to the maintenance of the program above, Michigan will pursue the following initiatives:

- Implement Election Administration technology enhancements.
- Purchasing software to improve the administration of federal elections.
- Purchasing voting systems.

Election Maintenance: A portion of the allocated Election Administration Improvement funds will be utilized in the following initiatives:

- Establishing maintenance funds to support Title III requirements.

Replacement of Punch Card Voting Systems and Lever Voting Machines ($325 Million): The funds must be used to replace the State's punch card voting systems and lever voting machines in advance of the November 2, 2004 general election. An extension through the first federal election conducted after January 1, 2006, can be requested for good cause.

Each State is eligible to receive up to $4,000 for each "qualifying precinct." A "qualifying precinct" is a precinct that used a punch card voting system or lever voting machines to administer the November 7, 2000 general election.

Michigan is eligible for approximately $6.8 million. If the total claimed exceeds the $325 million appropriation, the payments will be proportionately reduced.

Titles II and III: Election Assistance "Requirements Payments"

The Election Assistance Commission is required to make election assistance "requirements payments" to qualifying States. Under this section, the Appropriations bill authorized payments of $1.4 billion for FY 2003, $1 billion for FY 2004 and $600 million for FY 2005. However, only $830 million was actually appropriated and made available for spending for FY 2003. The funds "authorized" for each fiscal year must be appropriated under separate action before the funds are available to the States.

The funds are allocated according to the State's voting age population with a guaranteed minimum payment equal to ½ of 1% of the total appropriation for each year. Michigan is eligible for approximately $28 million this fiscal year.

Future Funding Assumptions

The remaining federal funds available to Michigan through FY 2005 are calculated by multiplying the total available amount of federal funding in that year by 3.3%. These portions require a 5% State match for all funds spent in each fiscal year. However, the State may draw down funds each fiscal year without providing the match if the State's election plan accounts for the future expenditure of the matching funds.

The following table outlines the assumptions regarding federal funding that Michigan used in creating its budget.

Federal Fiscal Year	Total Federal Funds Authorized [1]	Total Federal Funds Appropriated [2]	Michigan's Share
Early Payments	$650 million	$650 million (appropriated)	
Section 101			$6.8 million
Section 102			$9.9 million
2003	$1.4 billion	$830 million (appropriated)	$28,257,000 million
2004	$1 billion	$1.5 billion (appropriated)	$50,704,000 million
2005	$600 million	Pending	Pending
Total	**$3.65 billion**		**$95,661,000 million**

[1] "Authorized funds" represent the amount Congress recommended for the implementation of the Help America Vote Act when the Act was adopted.

[2] "Appropriated funds" represent the amount Congress has actually made available to the States for the implementation of the Help America Vote Act.

Projected Budget

Michigan's projected budget, based on the funding assumptions detailed above, represents the cost of implementing the requirements of Title I and Title III of the Help America Vote Act. The budget will be revised as appropriate to reflect the most current information available on federal funding, and any changes that may be made in the implementation schedule.

OVERALL HAVA COMPLIANCE BUDGET - 2003

HAVA Requirements	Estimated Total Cost	Source of Funding			Implementation Period
Title III Requirements		§102	Title II	State 5% Match	
(§301) Voting System	$55 million	$6.8 million	$45.45 million	$2.75 million	FY 2004 to FY 2006
(§302) Provisional Voting and voting information requirements	$500,000		$475,000	$25,000	FY 2004 to FY 2006
(§303) Computerized statewide voter registration list requirements and requirements for voters who register by mail	$5 million		$4.75 million	$250,000	FY 2004 to FY 2006
"Other" Activities					
Programming software, ballot production licensing, service contracts and polling place accessibility supplements to HHS grants	$5 million		$4.75 million	$250,000	FY 2004 to FY 2006
(§254 (3)) Voter education, election official education and training, and poll worker training which will assist the state in meeting the requirements of Title III	$5 million		$4.75 million	$250,000	FY 2004 to FY 2006
(§402) Establish a State-based HAVA administrative complaint procedure to remedy grievances	$500,000		$475,000	$25,000	

OVERALL HAVA COMPLIANCE BUDGET – 2005-2008

HAVA Requirements	Estimated Total Cost	Source of Funding				Implementation Period
Title III Requirements		Title I Section 101	Title I Section 102	Title II	State 5% Match	
(§101) Implement Election Administration technology enhancements.	$7,800,000	$7,800,000				
(§301) Voting System.	$57,100,000	$2,100,000	$6,800,000	$45,790,000	$2,410,000	FY 2004 to FY 2006
(§302) Provisional Voting and voting information requirements.	$26,316			$25,000	$1,316	FY 2004 to FY 2006
(§303) Computerized statewide voter registration list requirements and requirements for voters who register by mail.	$22,700,000			$21,565,000	$1,135,000	FY 2004 to FY 2006
"Other" Activities						
(§251 (b)(2)) Programming software, ballot production licensing, service contracts and polling place accessibility supplements to HHS grants.	$6,330,000			$6,014,000	$316,316	FY 2004 to FY 2006
(§254 (3)) Voter education, election official education and training, and poll worker training which will assist the state in meeting the requirements of Title III.	$5,850,000			$5,557,000	$292,632	FY 2004 to FY 2006
(§402) Establish a State-based HAVA administrative complaint procedure to remedy grievances.	$11,000			$10,000	$1,000	
Totals	**$ 99,817,000**	**$9,900,000**	**$6,800,000**	**$78,961,000**	**$4,156,000**	

*Interest earned on HAVA funds will be used to fund HAVA activities.

XII. Changes to State Plan from Previous Fiscal Year

In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State Plan for the previous fiscal year and of how the State succeeded in carrying out the State Plan for such previous fiscal year. -- HAVA §254(a)(12)

The FY 2003 Plan is Michigan's initial plan under the Help America Vote Act. This section will be updated in the FY 2004 Plan to reflect the changes made in the Plan as well as a summary of the 2003 successes.

HAVA State Plan FY 2005 Changes

The FY 2004 Plan has been updated in this FY 2005 Plan. The following reflects the changes made in the Plan as well as a summary of the 2003 and 2004 successes. Changes in the Plan consist of the following:

- The addition of $18.9 million in Title II funds and the appropriated amount to complete the full state match to the HAVA State Plan as noted in the overall HAVA Compliance Budget chart.
- Detailed documentation pertaining to the Title I, Section 101 HAVA funding.

Summary of the 2003 and 2004 Successes

The State of Michigan has been working diligently to implement the needed HAVA updates. Below are the HAVA successes in FY 2003 and FY 2004.

Voting Equipment:

The State of Michigan issued and Invitation to Bid (ITB) to provide precinct based Optical Scan Voting Equipment for all cities and townships in Michigan. As a result of the ITB process, three vendors were certified to sell optical scan systems in the state. Each county chose one of the three vendors to provide optical scan systems for every jurisdiction in the county.

To date, the State has purchased optical scan voting systems to replace punch card systems, lever machines, central count optical scan systems, DRE systems

and paper ballots in approximately 1,025 cities and townships across the state. Many of the systems have already been used in at least one election. The State has also purchased updated optical scan systems for most jurisdictions that had purchased and used optical scan systems prior to the November 2000 Presidential Election.

The following are HAVA Voting Equipment Projects underway:

- *Accessible Voting Equipment*
  Provide accessible and HAVA compliant voting systems for every polling location in the state. An Invitation to Bid will be issued in October of 2005.

- *Voting Equipment Reimbursement*
  Reimburse jurisdictions that purchased new optical scan voting systems after the 2000 Presidential Election. This project will be complete in late 2005 or early 2006.

Qualified Voter File (QVF) System Enhancements

In order to provide local election officials with tools to comply with the National Voter Registration Act (NVRA), the State of Michigan enhanced the QVF to automate the cancellation process. The QVF software now produces the notice to voters that fall into this category and each record is marked with the date the notice is sent. If no action is taken by the voter during the two federal election cycles, the QVF will automatically forward lists of registered voters subject to cancellation to each election official. If the voter votes during this period, the QVF will automatically remove the voter from the cancellation category.

The State of Michigan enhanced the QVF software to capture the last four digits of a registered voter's social security number when provided pursuant to HAVA. The State is finalizing its procedures to verify the voter's identity by matching the last four digits of social security number with Social Security Administration records.

The following are HAVA project in process:

- *Replacement of the QVF Server in Lansing*
  The Bureau of Elections purchased a new QVF server. DIT is currently testing its functionality. The new server is required for HAVA related initiatives to move digitized signatures from the driver file to the QVF and to

provide additional QVF access alternatives to smaller jurisdictions. The QVF server will be operational in early 2006.

- *Replacement of Local QVF Equipment*
  The Bureau of Elections drafted specifications and completed a cost analysis to replace the local equipment used by counties and larger cities and townships to access the QVF. New equipment is required to handle digitized signatures. The project plan estimates replacing this equipment during the first quarter of 2006.

- *Digitized Signature Project*
  As note above, the Bureau of Elections plans to move digitized driver license signatures to the QVF system, which will provide local election officials and Bureau of Elections staff electronic access to voter signatures. The technical specifications and work plan for this project are in progress. The actual project will begin when the new QVF server and local equipment are in place.

- *Providing Additional QVF Access Options to Smaller Jurisdictions*
  The Bureau of Elections created QVF software for any small jurisdiction with a PC with a Windows-based operating system (Windows 2000 or newer) and Internet Access to download and use. Pilot sites will test this process once the QVF server and local equipment are in place.

- *Development of a New Statewide Election Results Reporting System*
  It has long been a Bureau of Elections goal to streamline the process by which election results are reported on the nights of general elections. It has also been a long time goal to streamline and greatly reduce the time needed to collect precinct vote totals. The Bureau of Elections has begun a project to build a new computer application to accept results. Election results will be imported from software provided by the vendors of the new voting equipment. The new system is under development and an alpha version is expected to be in place and thoroughly tested prior to the August 2006 Primary Election.

- *Street Index Move from QVF Database to CGI Mapping System*
  Street and address information are constantly flowing to the State of Michigan in order to update and maintain the Qualified Voter File (QVF) street index. The QVF street index is the core of the statewide voter registration system and it maintains all official street names and their corresponding address ranges, zip codes, and election geography.

An evaluation process for maintaining and updating the QVF street index to assist with the creation of a more efficient system has been initiated to incorporate GIS technology. This would ease the maintenance of the street index and provide local election officials with mapping tools.

"Provisional" Balloting Process

Michigan election law was amended under PA 92 of 2004 to authorize "provisional" balloting for all elections.

A convenient, easy to use four-step procedure form was developed and distributed to implement the "provisional" balloting process in the polls. Additional procedures for evaluating the validity of "provisional" ballots not counted on election day were also developed and distributed.

Procedures for complying with the "free access system" requirements were developed and distributed. This system notifies voters who cast a provisional ballot off the disposition of their ballot.

Procedures for tracking and compiling data on the "provisional" balloting process were developed and distributed.

All procedures and materials were posted on the Bureau's web site for easy access by Michigan's election officials and voters.

Voter Education

- The Bureau produced and distributed a new election inspector training video; a new voter education video; and a new voting instruction video. The election inspector training video was used to instruct election inspectors throughout the state on the new requirements provided under the Help America Vote Act; the voter education video was used to inform Michigan voters on the procedures for registering and participating in elections; and the voting instruction video was used to acquaint Michigan voters with the use of optical scan voting equipment.
- The Bureau also updated and redistributed a training video designed to heighten the awareness and sensitivity of election workers to the special needs of elderly voters and voters with disabilities.

- Michigan election law was amended under PA 96 of 2004 to expand the information that must be posted in the polls on election day. The new posting requirements reflect the information which must be posted in all polling places under the Help America Vote Act. Informational posters that meet the new and expanded requirements are now distributed prior to every election scheduled in Michigan.

- The voter information which was posted in the polls was also made available in Braille and audio versions for others in need of the information in alternative formats.

- A new informational poster on the "rights and responsibilities" of Michigan voters was developed and distributed. A companion "palm card" was also produced for distribution to voters.

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ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0291; FRL–7744–9]

Tolerance Petitions for Pesticides on Food/Feed Crops and New Inert Ingredients; Renewal of Pesticide Information Collection Activities and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) this notice announces that EPA is seeking public comment on the following Information Collection Request (ICR): Tolerance Petitions for Pesticides on Food/Feed Crops and New Inert Ingredients (EPA ICR No. 0597.09, OMB Control No. 2070–0024). This is a request to renew an existing ICR that is currently approved and due to expire on August 31, 2006. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket identification (ID) number OPP–2005–0291, must be received on or before January 17, 2006.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Nathanael R. Martin, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6475; fax number: (703) 305–5884; e-mail address: *martin.nathanael@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you are a business engaged in the manufacturing of pesticides and other agricultural chemicals. Potentially affected entities may include, but are not limited to:

- Manufacturers of pesticides and other agricultural chemicals (NAICS 325320), e.g., businesses engaged in the manufacture of pesticides and who file a petition asking the Agency to take a specific tolerance action.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed above could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in 40 CFR 180.7 through 180.41. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Copies of this Document and Other Related Information?

A. Docket

EPA has established an official public docket for this action under docket identification (ID) number OPP–2005–0291. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

B. Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit II.A. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

III. How Can I Respond to this Action?

A. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper

receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit III.B. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0291. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0291. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit III.A. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0291.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0291. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit II.A.

B. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

C. What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

D. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does this Action Apply to?

EPA is seeking comments on the following ICR:

Title: Tolerance Petitions for Pesticides on Food/Feed Crops and New Inert Ingredients.

ICR numbers: EPA ICR No. 0597.09, OMB Control No. 2070–0024.

ICR status: This is a request to renew an existing ICR that is currently

approved and due to expire on August 31, 2006. The ICR describes the nature of the information collection activity and its expected burden and costs.

Abstract: The use of pesticides to increase crop production often results in pesticide residues in or on the crop. To protect the public health from unsafe pesticide residues, EPA sets limits on the nature and level of residues permitted pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA). A pesticide may not be used on food or feed crops unless the Agency has established a tolerance (maximum residue limit) for the pesticide residues on that crop, or established an exemption from the requirement to have a tolerance.

It is EPA's responsibility to ensure that the maximum residue levels likely to be found in or on food/feed crops are safe for human consumption through a careful review and evaluation of residue chemistry and toxicology data. In addition it must ensure that adequate enforcement of the tolerance can be achieved through the testing of submitted analytical methods. Once the data are deemed adequate to support the findings, EPA will establish the tolerance or grant an exemption from the requirement of a tolerance.

There are basically three types of tolerance actions:

- Permanent tolerance (or an exemption from the requirement for a permanent tolerance) for residues which would result from a pesticide use registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).
- Temporary tolerance (or an exemption from the requirement for a temporary tolerance) to permit the sale of commodities containing residues resulting from authorized experimental use of an unregistered pesticide.
- Time-limited tolerance (or an exemption from the requirement for a time-limited tolerance) to permit the sale of commodities containing residues resulting from a pesticide whose use was authorized under section 18 of FIFRA.

This ICR only applies to the information collection activities associated with the submission of a petition for a tolerance action.

V. What are EPA's Burden and Cost Estimates for this ICR?

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden is 258,900 hours. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: Any person seeking a tolerance action.

Estimated total number of potential respondents: 150.

Frequency of response: A petition is required only once for each raw or processed commodity on which the pesticide is used.

Estimated total/average number of responses for each respondent: 1.

Estimated total annual burden hours: 258,900.

Estimated total annual burden costs: $23,973,150.

VI. Are There Changes in the Estimates from the Last Approval?

Respondent costs for this ICR have increased due to inflationary adjustments in labor rates for both respondents and Agency personnel. As a result, there is an increase of $537,450 in the estimated total annual respondent cost (from $23,435,700 to $23,973,150).

VII. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: November 3, 2005.

Susan B. Hazen,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 05–22549 Filed 11–15–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7996–7]

Science Advisory Board Staff Office; Notification of a Public Teleconference and Meeting of the Science Advisory Board Radiation Advisory Committee (RAC) RadNet Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference and face-to-face meeting of the SAB Radiation Advisory Committee (RAC) RadNet Review Panel of the SAB to discuss the Office of Radiation and Indoor Air (ORIA) draft report ''*Expansion and Upgrade of the RadNet Air Monitoring Network,*'' (Vols. 1 & 2), dated October 2005. The RAC will also receive a program update and briefings.

DATES: A public teleconference of the SAB Radiation Advisory Committee (RAC) RadNet Review Panel will be held on December 1, 2005 from 1 p.m. to 3 p.m. eastern standard time. The face-to-face public meeting will be held December 19 and 20, 2005 from 8:30 a.m to 5:30 p.m. central time. Upon completion of the RadNet Review, the RAC will receive a program update and briefing from ORIA on December 21, 2005 from 8:15 a.m. to no later than 1 p.m central time.

ADDRESSES: The public teleconference will take place via telephone only. The public face-to-face meeting will be held at the U.S. EPA National Air and Radiation Environmental Laboratory (NAREL), 540 South Morris Avenue, Montgomery, AL 36115.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain the call-in number and access code for the December 1, 2005 teleconference, or further information concerning the public face-to-face meeting in Montgomery, AL may contact Dr. K. Jack Kooyoomjian, Designated Federal Officer (DFO), by mail at EPA SAB Staff Office (1400F), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by telephone at (202) 343–9984; by fax at (202) 233–0643; or by e-mail at:

kooyoomjian.jack@epa.gov. General information concerning the SAB can be found on the SAB Web site at: *http://www.epa.gov/sab.* Technical Contact: For questions and information concerning the document being reviewed, contact Dr. Mary E. Clark, U.S. EPA, ORIA by telephone at (202) 343–9348, fax at (202) 243–2395, or e-mail at *clark.marye@epa.gov.*

SUPPLEMENTARY INFORMATION:

Summary: EPA's ORIA has requested EPA's Science Advisory Board to review its draft report ''*Expansion and Upgrade of the RadNet Air Monitoring Network,*'' (Vols. 1 & 2), dated October 2005. The purpose of the upcoming teleconference is for the RAC's RadNet Review Panel to be briefed on the document to be reviewed and to clarify the charge to the Panel. The purpose of the upcoming face-to-face meeting is to allow the SAB RAC RadNet Review Panel to conduct a peer review of the document. Meeting agendas and background information for the teleconference and face-to-face meetings will be posted on the SAB Web site at: *http://www.epa.gov/sab* prior to the meetings.

The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The review will be conducted by the RAC's RadNet Review Panel, consisting of current SAB RAC members and additional outside experts. The Panel will comply with the provisions of the Federal Advisory Committee Act (FACA) and all appropriate SAB procedural policies. As such, all public meetings will be announced in the **Federal Register** at least 15 days prior to their scheduled times.

Background: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the SAB Staff Office hereby gives notice of a public meeting of the Radiation Advisory Committee (RAC) RadNet Review Panel. The EPA ORIA requested the SAB to provide advice on RadNet, which is the National Monitoring System (NMS) upgrade, formerly known as the Environmental Radiation Ambient Monitoring System (ERAMS). The RAC's RadNet Review Panel will review the draft document entitled ''*Expansion and Upgrade of the RadNet Air Monitoring Network,*'' (Vols. 1 & 2), dated October 2005. Additionally, the RAC will receive a program update and briefing related to ORIA program activities within the EPA for the coming year on the morning of December 21, 2005.

Additional background information on this review include notification of a public teleconference meeting of the RAC to receive briefings from the Agency and discuss its advisory agenda for FY 2005 [70 FR 4847, January 31, 2005], as well as a request for nominations of experts [70 FR 15083, March 24, 2005].

Persons who wish to obtain additional background materials on the current ERAMS network may find them at the following Web site: *http://www.epa.gov/narel/erams/index.html.* Copies of the materials provided to the RAC's RadNet Review Panel, including the Agency's draft document entitled ''*Expansion and Upgrade of the RadNet Air Monitoring Network,*'' (Vols. 1 & 2), dated October 2005, as well as briefing materials and other background materials pertinent to the activities announced in this notice may be requested from Dr. Mary E. Clark of the U.S. EPA, ORIA by telephone at (202) 343–9348, fax at (202) 243–2395, or e-mail at *clark.marye@epa.gov.*

Procedures for Providing Public Comment: The SAB Staff Office accepts written public comments of any length for consideration by the Panel and accommodates oral comments whenever possible. The EPA SAB Staff Office expects the public statements presented at SAB meetings will not repeat previously-submitted oral or written statements. Oral Comments: Requests to provide oral comment must be in writing (e-mail or fax) and received by Dr. Kooyoomjian at the contact information noted above no later than November 23, 2005 for the December 1, 2005 teleconference call, and December 12, 2005 for the December 19 to 21, 2005 meeting. Oral presentation at a teleconference meeting will usually be limited to three minutes per speaker or organization for a total of no more than fifteen minutes for all speakers. Written Comments: Written comments should be received by Dr. Kooyoomjian at the contact information noted above no later than November 23, 2005 for the December 1, 2005 teleconference call, and December 12, 2005 for the December 19 to 21, 2005 meeting so that comments may be made available to the Panelists for their consideration. Written comments should be received by Dr. Kooyoomjian (preferably by e-mail) at the address and contact information provided above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 98/2000/XP format)). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution.

Meeting Access: Individuals requiring special accommodation to access the public teleconference or public meeting should contact Dr. Kooyoomjian at least five business days prior to the meeting, so that appropriate arrangements can be made. For information on access or services for individuals with disabilities, please contact Dr. K. Jack Kooyoomjian at 202–343–9984 or *kooyoomjian.jack@epa.gov* to request accommodation of a disability. Such accommodation is required by sections 504 and 508 of the Rehabilitation Act of 1973, 29 U.S.C. 794 and 794d, EPA's implementing regulations, 40 CFR part 12, and the federal standards for ''Electronic and Information Technology Accessibility,'' 36 CFR part 1194, which govern accessibility and accommodation in relation to EPA programs and activities, such as Federal Advisory Committee meetings.

Dated: November 8, 2005.

Anthony F. Maciorowski,

Associate Director for Science, EPA Science Advisory Board Staff Office.

[FR Doc. 05–22702 Filed 11–15–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0265; FRL–7746–4]

Dicloran Risk Assessments; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's risk assessment(s), and related documents for the nitroanaline pesticide dicloran, and opens a public comment period on these documents. The public is encouraged to suggest risk management ideas or proposals to address the risks identified. EPA is developing a Reregistration Eligibility Decision (RED) for dicloran through a modified, 4–Phase public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments, identified by docket identification (ID) number OPP–2005–0265, must be received on or before January 17, 2006.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in

Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Patrick Dobak, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8180; fax number: (703) 308–8041; e-mail address: *dobak.pat@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2005–0265. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0265. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0265. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access''

system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0265.

3. *By hand delivery or courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0265. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. Background

A. What Action is the Agency Taking?

EPA is releasing for public comment its human health and environmental fate and effects risk assessments and related documents for dicloran, and soliciting public comment on risk management ideas or proposals. Dicloran is a contact fungicide used on a broad variety of fruits, vegetables, nuts and ornamental plants. EPA developed the risk assessments and risk characterization for dicloran through a modified version of its public process for making pesticide reregistration eligibility and tolerance reassessment decisions. Through these programs, EPA is ensuring that pesticides meet current standards under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

Dicloran is a fungicide registered for use on apricots, celery, cucumbers, endive, fennel, florence, garlic, grapes, lettuce, nectarines, onions, peaches, plums, potatoes, prunes, rhubarb, shallots, snap beans, sweet cherries, and sweet potatoes. The chief uses are on celery and lettuce. Along with pre-harvest uses, dicloran may also be applied post- harvest to fruits, carrots and sweet potatoes. In addition, it may be applied to ornamental plants in nursery settings. These crops consist of chrysanthemums, geraniums, roses, gladiolus, hydrangeas and conifers. There are no residential dicloran uses.

EPA is providing an opportunity, through this notice, for interested parties to provide comments and input on the Agency's risk assessments for dicloran. Such comments and input could address, for example, the availability of additional information to further refine the risk assessments, such as the pesticide degradation properties, residue decline (after application) information, human exposure information including incidents, and chronic ecotoxicity data to plants and animals, or could address the Agency's risk assessment methodologies and assumptions as applied to this specific pesticide.

Through this notice, EPA also is providing an opportunity for interested parties to provide risk management proposals or otherwise comment on risk management for dicloran. Risks of concern associated with the use of dicloran are: Chronic risks to mixers, loaders, and applicators for the crops with the highest potential seasonal application rates. These crops include celery, potatoes, florence, and fennel. Risks to agricultural workers re-entering treated areas for several crop groups are also identified, particularly for cut flowers and potted plants. Potential ecological risks identified included freshwater and estuarine/marine fish and amphibians, birds and reptiles, and mammals. Chronic risks to freshwater and estuarine/marine fish and invertebrates as well as aquatic vascular and nonvascular plants, and terrestrial and semi-aquatic plants could not be assessed because of a lack of data. In targeting these risks of concern, the Agency solicits information on effective and practical risk reduction measures.

EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to dicloran, compared to the general population.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance

reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819)(FRL–7357–9) explains that in conducting these programs, the Agency is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of the issues, and degree of public concern associated with each pesticide. For dicloran, a modified, 4–Phase process with one comment period and ample opportunity for public consultation seems appropriate in view of its limited use, and few complex issues. However, if as a result of comments received during this comment period EPA finds that additional issues warranting further discussion are raised, the Agency may lengthen the process and include a second comment period, as needed.

All comments should be submitted using the methods in Unit I. of the **SUPPLEMENTARY INFORMATION**, and must be received by EPA on or before the closing date. Comments will become part of the Agency Docket for dicloran. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

Section 408(q) of the FFDCA, 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

List of Subjects

Environmental protection, Pesticides and pests.

November 7, 2005.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 05–22615 Filed 11–15–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0369; FRL–7743–8]

Chloroneb; Reregistration Eligibility Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for the pesticide chloroneb. The Agency's risk assessments and other related documents are also available in the chloroneb docket. Chloroneb (1,4-dichloro-2,5-dimethoxybenzene) is a systemic fungicide currently registered for seed treatment uses on beans (including cowpeas), cotton, lupine, soybeans, and sugar beets to protect against a variety of diseases such as seed rot, damping-off, blights, and other seedling diseases. Chloroneb is also registered on golf course and turf grasses, as well as ornamental plants to control blights. EPA has reviewed chloroneb through the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

FOR FURTHER INFORMATION CONTACT: Wilhelmena Livingston, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8025; fax number: (703) 308–8041; e-mail address: *livingston.wilhelmena@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2004–0369. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a Reregistration Eligibility Decision (RED) for the pesticide, chloroneb under section 4(g)(2)(A) of FIFRA. The Agency has conducted human health and ecological risk assessments for chloroneb for the purposes of making a reregistration decision. The Agency has concluded its reregistration eligibility decision for chloroneb and determined that the chemical is eligible for reregistration provided that: (1) Current

data gaps and additional data needs are addressed; (2) the risk mitigation measures outlined in the RED document are adopted; and (3) label amendments are made to implement these measures. Upon submission of any required product specific data under section 4(g)(2)(B) and any necessary changes to the registration and labeling (either to address concerns identified in the RED or as a result of product specific data). EPA will make a final reregistration decision under section 4(g)(2)(C) for products containing chloroneb.

EPA must review tolerances and tolerance exemptions that were in effect when the Food Quality Protection Act (FQPA) was enacted in August 1996, to ensure that these existing pesticide residue limits for food and feed commodities meet the safety standard established by the new law. Tolerances are considered reassessed once the safety finding has been made or a revocation occurs. EPA has reviewed and made the requisite safety finding for the chloroneb tolerances included in this notice.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819) explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Due to its uses, risks, and other factors, chloroneb was reviewed through the modified 4–Phase public participation process. Through this process, EPA worked extensively with stakeholders and the public to reach the regulatory decisions for chloroneb.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public. A comment period is not needed because all issues related to this pesticide were resolved through consultations with stakeholders. The Agency therefore is issuing the chloroneb RED without a comment period.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended, directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

Section 408(q) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: November 7, 2005.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 05–22619 Filed 11–15–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0230; FRL–7742–7]

Tau-fluvalinate; Reregistration Eligibility Decision for Low Risk Pesticide; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for the pesticide tau-fluvalinate, and opens a public comment period on this document, related risk assessments, and other support documents. EPA has reviewed the low risk pesticide tau-fluvalinate through a modified, streamlined version of the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments, identified by docket identification (ID) number OPP–2005–0230, must be received on or before December 16, 2005.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Molly Clayton, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–-0001; telephone number: (703) 603–0522; fax number: (703) 308–8041; e-mail address:*clayton.molly@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket ID number OPP–2005–0230. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collecion of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to

access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/,* and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0230. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0230. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0230.

3. *By hand delivery or courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0230. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's

electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. Using a modified, streamlined version of its public participation process, EPA has completed a RED for the low risk pesticide, tau-fluvalinate under section 4(g)(2)(A) of FIFRA. Tau-fluvalinate is a broad-spectrum insecticide/miticide in the pyrethroid class of pesticides. It is registered for a single food use (beehives/honey) and several non-food uses, including ornamentals (outdoor and container-grown, greenhouse, interior plantscapes, dip for cuttings), building surfaces/perimeters, and ant mounds. There are also Special Local Need registrations in California for certain crops (carrots and brassica/cole crops) grown for seed. EPA has determined that the data base to support reregistration is substantially complete and that products containing tau-fluvalinate will be eligible for reregistration. Upon submission of any required product specific data under section 4(g)(2)(B) and any necessary changes to the registration and labeling (either to address any concerns identified in the RED or as a result of product specific data), EPA will make a final reregistration decision under section 4(g)(2)(C) for products containing tau-fluvalinate.

EPA must review tolerances and tolerance exemptions that were in effect when the Food Quality Protection Act (FQPA) was enacted in August 1996, to ensure that these existing pesticide residue limits for food and feed commodities meet the safety standard established by the new law. Tolerances are considered reassessed once the safety finding has been made or a revocation occurs. EPA has reviewed and made the requisite safety finding for the tau-fluvalinate tolerances included in this notice.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819)(FRL–7357–9) explains that in conducting these programs, the Agency is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. EPA can expeditiously reach decisions for pesticides like tau-fluvalinate, which pose few risk concerns, have low use, and require little or no risk mitigation. Once EPA assesses uses and risks for such low risk pesticides, the Agency may go directly to a decision and prepare a document summarizing its findings, such as the tau-fluvalinate RED.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public in finding ways to effectively mitigate pesticide risks. Tau-fluvalinate, however, poses few risks that require mitigation. The Agency therefore is issuing the tau-fluvalinate RED, its risk assessments, and related support materials simultaneously for public comment. The comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments should be submitted using the methods in Unit I. of the **SUPPLEMENTARY INFORMATION**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for tau-fluvalinate. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

EPA will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the Docket and electronic EDOCKET. If any comment significantly affects the document, EPA also will publish an amendment to the RED in the **Federal Register**. In the absence of substantive comments requiring changes, the tau-fluvalinate RED will be implemented as it is now presented.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

Section 408(q) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: November 7, 2005.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 05–22616 Filed 11–15–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0382; FRL–7745–5]

Thidiazuron; Reregistration Eligibility Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for the pesticide thidiazuron, and opens a public comment period on this document. The Agency's risk assessments and other related

documents also are available in the thidiazuron docket. Thidiazuron is registered for use as a pre-harvest cotton defoliant or growth regulator. It removes green leaves and immature fruiting structures, which contribute to cotton staining. EPA has reviewed thidiazuron through the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments, identified by docket ID number OPP–2004–0382, must be received on or before December 16, 2005.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: John W. Pates, Jr. , Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8195; fax number: (703) 308–8041; e-mail address: *pates.john@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2004–0382. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties

and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2004–0382. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2004–0382. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2004–0382.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2004–0382. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a Reregistration Eligibility Decision (RED) for the pesticide, thidiazuron under section 4(g)(2)(A) of FIFRA. Thidiazuron is registered for use as a pre-harvest cotton defoliant or growth regulator. It removes green leaves and immature fruiting structures, which contribute to cotton staining. EPA has determined that the data base to support reregistration is substantially complete and that products containing thidiazuron are eligible for reregistration, provided the potential risks are mitigated either in the manner described in the RED or by another means that achieves equivalent risk reduction. Upon submission of any required product specific data under section 4(g)(2)(B) and any necessary changes to the registration and labeling (either to address concerns identified in the RED or as a result of product specific data), EPA will make a final reregistration decision under section 4(g)(2)(C) for products containing thidiazuron.

EPA must review tolerances and tolerance exemptions that were in effect when the Food Quality Protection Act (FQPA) was enacted in August 1996, to ensure that these existing pesticide residue limits for food and feed commodities meet the safety standard established by the new law. Tolerances are considered reassessed once the safety finding has been made or a revocation occurs. EPA has reviewed and made the requisite safety finding for the thidiazuron tolerances included in this notice.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819)(FRL–7357–9) explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Due to its uses, risks, and other factors, thidiazuron was reviewed through the modified 4–Phase process. Through this process, EPA worked extensively with stakeholders and the public to reach the regulatory decisions for thidiazuron.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public. The Agency is issuing the thidiazuron RED for public comment. This comment period is intended to provide an additional opportunity for public input

and a mechanism for initiating any necessary amendments to the RED. All comments should be submitted using the methods in Unit I. of the **SUPPLEMENTARY INFORMATION**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for thidiazuron. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the Docket and electronic EDOCKET. If any comment significantly affects the document, EPA also will publish an amendment to the RED in the **Federal Register**. In the absence of substantive comments requiring changes, the thidiazuron RED will be implemented as it is now presented.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

Section 408(q) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: November 7, 2005.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 05–22620 Filed 11–15–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0277; FRL–7742–1]

Pesticide Emergency Exemptions; Agency Decisions and State and Federal Agency Crisis Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted or denied emergency exemptions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use of pesticides as listed in this notice. The exemptions or denials were granted during the period July 1, 2005 - September 30, 2005 to control unforseen pest outbreaks.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption or denial for the name of a contact person. The following information applies to all contact persons: Team Leader, Emergency Response Team, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9366.

SUPPLEMENTARY INFORMATION: EPA has granted or denied emergency exemptions to the following State and Federal agencies. The emergency exemptions may take the following form: Crisis, public health, quarantine, or specific. EPA has also listed denied emergency exemption requests in this notice.

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification number OPP–2005–0277. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background

Under FIFRA section 18, EPA can authorize the use of a pesticide when emergency conditions exist. Authorizations (commonly called emergency exemptions) are granted to State and Federal agencies and are of four types:

1. A ''specific exemption'' authorizes use of a pesticide against specific pests on a limited acreage in a particular State. Most emergency exemptions are specific exemptions.

2. ''Quarantine'' and ''public health'' exemptions are a particular form of

specific exemption issued for quarantine or public health purposes. These are rarely requested.

3. A ''crisis exemption'' is initiated by a State or Federal agency (and is confirmed by EPA) when there is insufficient time to request and obtain EPA permission for use of a pesticide in an emergency.

EPA may deny an emergency exemption: If the State or Federal agency cannot demonstrate that an emergency exists, if the use poses unacceptable risks to the environment, or if EPA cannot reach a conclusion that the proposed pesticide use is likely to result in ''a reasonable certainty of no harm'' to human health, including exposure of residues of the pesticide to infants and children.

If the emergency use of the pesticide on a food or feed commodity would result in pesticide chemical residues, EPA establishes a time-limited tolerance meeting the ''reasonable certainty of no harm standard'' of the Federal Food, Drug, and Cosmetic Act (FFDCA).

In this document: EPA identifies the State or Federal agency granted the exemption or denial, the type of exemption, the pesticide authorized and the pests, the crop or use for which authorized, number of acres (if applicable), and the duration of the exemption. EPA also gives the **Federal Register** citation for the time-limited tolerance, if any.

III. Emergency Exemptions and Denials

A. U.S. States and Territories

Alabama

Department of Agriculture and Industries

Specific: EPA authorized the use of sulfosulfuron on Bermuda and Bahia grass pastures, and hayfields to control Johnson grass; September 23, 2005 to September 15, 2006. Contact: (Libby Pemberton)

Arizona

Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetles; August 25, 2005 to February 1, 2006. Contact: (Stacey Groce)

Arkansas

State Plant Board
Specific: EPA authorized the use of methoxyfenozide on soybeans to control saltmarsh catepillars and armyworms; August 9, 2005 to October 30, 2005. Contact: (Stacey Groce)

EPA authorized the use of thymol in beehives to control varroa mites; August 25, 2005 to December 1, 2006. Contact: (Stacey Groce)

California

Environmental Protection Agency, Department of Pesticide Regulation
Specific: EPA authorized the use of myclobutanil on artichoke to control powdery mildew; August 18, 2005 to August 18, 2006. Contact: (Stacey Groce)

Delaware

Department of Agriculture
Specific: EPA authorized the use of bifenazate on soybeans to control two spotted spider mites; July 19, 2005 to August 1, 2005. Contact: (Libby Pemberton)

Florida

Department of Agriculture and Consumer Services
Quarantine: EPA authorized the use of naled in bait stations to control fruit flies; September 22, 2005, to September 22, 2008. Contact: (Andrew Ertman)
Specific: EPA authorized the use of thiophanate-methyl on cotton to control *fusarium hardlock*; July 21, 2005 to July 21, 2006. Contact: (Stacey Groce)

Georgia

Department of Agriculture
Specific: EPA authorized the use of terbacil on watermelons to control annual broadleaf plants; July 15, 2005 to July 31, 2005. Contact: (Stacey Groce)
EPA authorized the use of sulfosulfuron on Bermuda and Bahia grass pastures, and hayfields to control Johnson grass; September 23, 2005 to September 15, 2006. Contact: (Libby Pemberton)

Idaho

Department of Agriculture
Specific: EPA authorized the use of diflubenzuron on barley and wheat to control grasshoppers and Mormon crickets; July 1, 2005 to August 1, 2005. Contact: (Libby Pemberton)
EPA authorized the use of flufenacet on wheat to control Italian ryegrass; September 23, 2005 to December 31, 2005. Contact: (Andrew Ertman)

Louisiana

Department of Agriculture and Forestry
Specific: EPA authorized the use of methoxyfenozide on sorghum grain to control southwestern corn borer and sugarcane borer; August 4, 2005 to September 15, 2005. Contact: (Stacey Groce)

EPA authorized the use of sulfosulfuron on Bermuda and Bahia grass pastures, and hayfields to control Johnson grass; September 23, 2005 to September 15, 2006. Contact: (Libby Pemberton)

Minnesota

Department of Agriculture
Specific: EPA authorized the use of lambda-cyhalothrin on wild rice to control rice worms; June 30, 2005 to September 10, 2005. Contact: (Andrew Ertman)

Mississippi

Department of Agriculture and Commerce

Specific: EPA authorized the use of sulfosulfuron on Bermuda and Bahia grass pastures, and hayfields to control Johnson grass; September 23, 2005 to September 15, 2006. Contact: (Libby Pemberton)

Montana

Department of Agriculture
Specific: EPA authorized the use of azoxystrobin on safflower to control *Alternaria leaf spot*; July 15, 2005 to August 15, 2005. Contact: (Libby Pemberton)

EPA authorized the use of diflubenzuron on alfalfa to control grasshoppers and Mormon crickets; August 25, 2005 to September 30, 2005. Contact: (Libby Pemberton)

Nebraska

Department of Agriculture
Crisis: On August 18, 2005, for the use of tebuconazole on sunflower to control rust. This program ended on September 1, 2005.Contact: (Stacey Groce)
Specific: EPA authorized the use of tebuconazole on field corn seed to control head smut (*Sphacelotheca reiliana (Kuhn*); August 11, 2005 to May 30, 2006. Contact: (Libby Pemberton)

Nevada

Department of Agriculture
Specific: EPA authorized the use of thymol in beehives to control varroa mites; August 25, 2005 to December 1, 2006. Contact: (Stacey Groce)

New Mexico

Department of Agriculture
Specific: EPA authorized the use of myclobutanil on chile peppers and bell peppers to control powdery mildew; July 1, 2005 to October 15, 2005. Contact: (Stacey Groce)

North Carolina

Department of Agriculture
Crisis: On July 5, 2005, for the use of azoxystrobin on tobacco to control target

spot. This program ended on July 22, 2005. Contact: (Libby Pemberton)

North Dakota

Department of Agriculture
Crisis: On August 5, 2005, for the use of diquat dibromide on canola as a harvest aid. This program ended on August 19, 2005. Contact: (Libby Pemberton)
Specific: EPA authorized the use of azoxystrobin on safflower to control *Alternaria leaf spot*; July 7, 2005 to August 15, 2005. Contact: (Libby Pemberton)

Oklahoma

Department of Agriculture
Specific: EPA authorized the use of thymol in beehives to control varroa mites; September 15, 2005 to December 1, 2006. Contact: (Stacey Groce)
EPA authorized the use of sulfosulfuron on Bermuda and Bahia grass pastures, and hayfields to control Johnson grass; September 23, 2005 to September 15, 2006. Contact: (Libby Pemberton)

Oregon

Department of Agriculture
Specific: EPA authorized the use of bifenthrin on orchardgrass to control the orchardgrass billbug; July 8, 2005 to November 15, 2005. Contact: (Andrea Conrath)

EPA authorized the use of flufenacet on wheat to control Italian ryegrass; September 23, 2005 to December 31, 2005. Contact: (Andrew Ertman)
EPA authorized the use of ethoprop on baby mint to control garden symphylan (*Scutigerella immaculata*); July 22, 2005 to September 15, 2005. Contact: (Libby Pemberton)

South Carolina

Clemson University
Crisis: On July 14, 2005, for the use of azoxystrobin on tobacco to control target spot. This program ended on July 28, 2005. Contact: (Libby Pemberton)

Tennessee

Department of Agriculture
Specific: EPA authorized the use of azoxystrobin on tobacco to control (*Cercospora nicotianae*) and Target spot (*Rhizoctonia solani*); August 9, 2005 to October 15, 2005. Contact: (Libby Pemberton)

Utah

Department of Agriculture
Specific: EPA authorized the use of bifenazate on tart cherries to control two spotted spider mites (*Tetranychus urticae Koch*); McDaniel mite (*Tetranychus mcdanieli Mcgregor*); and European red mite (*Panonychus ulmi (Koch*)); July 19, 2005 to September 1, 2005. Contact: (Libby Pemberton)

Virginia

Department of Agriculture and Consumer Services

Specific: EPA authorized the use of thymol in beehives to control varroa mites; August 25, 2005 to December 1, 2006. Contact: (Stacey Groce)

Washington

Department of Agriculture

Specific: EPA authorized the use of diflubenzuron on barley and wheat to control grasshoppers and Mormon crickets; July 1, 2005 to August 1, 2005. Contact: (Libby Pemberton)

EPA authorized the use of flufenacet on wheat to control Italian ryegrass; September 23, 2005 to December 31, 2005. Contact: (Andrew Ertman)

B. Federal Departments and Agencies

Agriculture Department

Animal and Plant Health Inspector Service

Crisis: On June 20, 2005, for the use of sodium hypochlorite, sodium carbonate, and sodium hydroxide on any item, field site, or surface potentially contaminated by exotic infectious disease organisms to control those organisms in various locations throughout the United States. This program is expected to end on June 21, 2008. Contact: (Libby Pemberton)

Defense Department

Quarantine: EPA authorized the use of paraformaldehyde on biological containment areas, biological safety cabinets and equipement, and high efficiency particulate air filters in the ventilation system to prevent the release of infectious microorganisms from containment areas); September 29, 2005 to September 29, 2008. Contact: (Libby Pemberton)

List of Subjects

Environmental protection, Pesticides and pest.

Dated: October 28, 2005.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 05–22618 Filed 11–15–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OEI–2005–0015; FRL–7997–2]

Office of Environmental Information; Request for Comment and Request for Information on System Requirements Document for Environmental Terminology Services

AGENCY: Environmental Protection Agency.

ACTION: Request for comment and request for information.

SUMMARY: The U.S. Environmental Protection Agency is seeking to redesign its current Terminology Reference System (TRS) [see *http://www.epa.gov/trs*] in order to better support future semantic Web needs, increase usability and integrate with other systems for enterprise-wide content management, search, and portal development. The agency has established the following requirements and is interested in receiving comments and information from potential bidders and experts in the field regarding these requirements.

DATES: Comments and or information must be submitted on or before November 28, 2005.

FOR FURTHER INFORMATION CONTACT: Linda Spencer; Environmental Protection Agency; 1200 Pennsylvania Avenue, MC 2822T; Washington, DC 20460; Phone: 202–566–1651; Fax: 202–566–1624; E-mail: *Spencer.linda@epa.gov.*

SUPPLEMENTARY INFORMATION: The Agency is seeking a commercial off-the-shelf (COTS) and/or Government off-the-shelf (GOTS) software package(s) to match the user/system requirements. The Agency will also consider customization of a COTS/GOTS and the integration of several COTS/GOTS products.

Part of EPA's vision is to see the TRS evolve from being just a terminology repository, into a suite of Environmental Terminology Services (ETS). It will always remain a repository for environmental terminology and terminology structures (taxonomies, thesauri, ontologies, dictionaries, etc.). However, the environmental terminology contained in the repository will be enriched. Through use and curation, the TRS will evolve from a term-based system to a concept-based system. The concepts the ETS contains, along with their terms and definitions, will have sufficient metadata to enable those concepts to be used as the building blocks for the creation of business-driven Agency terminology structures (taxonomies, thesauri, etc.)

The repository will also contain an authoritative controlled vocabulary for the Agency which can serve in the creation of glossaries for Web pages and documents, a common vocabulary for search engines, and in the development of rules and regulations.

I. General Information

A. How Can I Get Copies of These Documents and Other Related Information?

1. Docket. EPA has established an official public docket for this action under Docket ID No. OEI–2005–0015. The official public docket is the collection of materials that is available for public viewing at the OEI Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

2. Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Dated: November 3, 2005.

Oscar Morales,

Division Director, Collection Strategies Division, Office of Information Collection, U.S. Environmental Protection Agency.

[FR Doc. 05–22703 Filed 11–15–05; 8:45 am]

BILLING CODE 6560–50–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Proposed Principles for Federal Support of Graduate and Postdoctoral Education and Training in Science and Engineering

AGENCY: Executive Office of the President, Office of Science and Technology Policy (OSTP).

ACTION: Notice of proposed issuance of principles for Federal programs that provide support for post-baccalaureate education and training in science and engineering.

SUMMARY: The proposed principles are intended to increase collaboration and consistency within the Federal agencies in support of graduate and postdoctoral education and training in science and engineering. Principles are:

- Federal Support of Graduate and Postdoctoral Education and Training Is a Critical Investment in the Future;
- The Federal Investment Portfolio Must Broadly Support Science and Engineering Disciplines;
- Graduate Students and Postdoctoral Scholars Must Receive Quality Education and Training;
- Federal Contributions toward Graduate and Postdoctoral Education and Training are Provided in Partnership with Academic and Other Non-Federal Institutions;
- Graduate Students and Postdoctoral Scholars Should Be Adequately Supported to Encourage Their Pursuit of Science and Engineering Careers; and
- Federal Agencies Should Collaborate in Areas of Common Interest.

DATES AND ADDRESSES: Comments must be received by January 16, 2006. Electronic comments may be submitted to: *MWeiss@ostp.eop.gov.* Please include in the subject line the words ''National Science and Technology Council (NSTC) Education and Workforce Development Comments.'' Please put the full body of your comments in the text of the electronic message and as an attachment. Be certain to include your name, title, organization, postal address, telephone number, and e-mail address in the text of the message. A return message will acknowledge receipt of your comments.

FOR FURTHER INFORMATION CONTACT: For information regarding this Notice, please call Mark Weiss, Office of Science and Technology Policy, (202) 456–6129; e-mail *MWeiss@ostp.eop.gov* or fax (202) 456–6027.

SUPPLEMENTARY INFORMATION:

I. Background Information

The Federal Government supported approximately 60,000 graduate students and 30,000 postdoctoral scholars in science and engineering in 2001. About 44,000 (or 73%) of the graduate students and 24,000 (or 80%) of the postdoctoral scholars received their support as research assistants or associates on Federal grants and contracts. Most of the remaining 27% of the graduate students and 20% of the postdoctoral scholars received support through Federal agencies' fellowships or traineeships.[1]

The Research Business Models Subcommittee of the Committee on Science, a committee of the National Science and Technology Council, conducted regional meetings in 2003 and issued a **Federal Register** notice asking for comments on ways to improve business practices of Federal research programs. Concern was raised about the lack of consistency among Federal agencies' support for graduate students and postdoctoral scholars in the nation's universities and other research organizations. In particular, universities administering Federal support for graduate students and postdoctoral scholars cited difficulties created by agency-to-agency variations in fellowship and traineeship stipends and allowances for educational and other costs.

The Committee on Science is proposing the six principles in Section

[1] In this document the term ''science and engineering'' includes, but is not limited to, agricultural, behavioral, biological, computer, engineering, environmental, mathematical, medical/clinical, physical, psychology, social, and veterinary sciences.

The data are taken from the 2002 Survey of Graduate Students and Postdoctorates in Science and Engineering (National Science Foundation/ Division of Science Resources Statistics).

Research assistants or associates refer to graduate students or postdoctoral scholars funded through Federal research grants or contracts. The assistants or associates are not selected by the Federal agency, and the host institution determines their level of support. The principle purpose of their employment is the conduct of research, and any limitations imposed by their citizenship status are determined by the policies of the host institution.

Graduate students or postdoctoral scholars supported on Traineeships are usually not selected by the Federal agency, but the Federal agency determines their level of support (although in some cases the level of support-may be supplemented by other sources). The principle purpose of their traineeship support is their education and training, and they must be U.S citizens, permanent residents, or meet other policies of the Federal agency.

Graduate students or postdoctoral scholars supported on Fellowships are selected by the Federal agency, and the Federal agency determines their level of support (although in some cases their level of support may be supplemented by other sources). The principle purpose of their fellowship support is their education and training, and they must be U.S citizens or permanent residents or meet other policies of the Federal agency.

II of this Supplementary Information Section as part of an effort to address these concerns. The principles are developed to help guide agencies in planning and designing, budgeting, and conducting extramural fellowship and traineeship programs (*i.e.*, Federal fellowship and traineeship programs for which the graduate students and postdoctoral scholars are receiving their education and training in non-Federal institutions). Similarly, these principles should help guide Federal support of graduate students and postdoctoral scholars through other mechanisms, such as research assistantships supported by research grants or contracts, or through intramural programs.

The Committee on Science is also considering the establishment of the interagency process described in Section III of this Supplementary Information Section. This process is intended to support the agencies' use of the six principles on a continuing basis, in order to increase collaboration and consistency within the Federal government for supporting graduate and postdoctoral education and training in science and engineering.

II. Proposed Principles for Federal Support of Graduate and Postdoctoral Education and Training in Science and Engineering

• *Federal Support of Graduate and Postdoctoral Education and Training Is a Critical Investment in the Future.* Federal Government support for educating and training graduate and postdoctoral scientists and engineers is an essential investment in the future health, security, and quality of life of our Nation's citizens. To ensure continued access to the human resources that lie at the foundation of a preeminent research and development enterprise, we must provide encouragement and opportunities for students with the aptitude and desire to pursue advanced degrees in science and engineering. Increasing the participation of underrepresented minorities, women, and persons with disabilities in graduate and postdoctoral education and training is a critical aspect in realizing the full potential of the Nation's human resources in science and engineering. Federal Government support is critical because: timeframes for realizing the benefits of the education and training are beyond the investment horizons of most corporations; the magnitude of the required support exceeds the collective capacity of foundations and other private sponsors; and the resulting reservoir of talent is a national resource upon which all public and private sector employers of scientists and engineers ultimately draw.

• *The Federal Investment Portfolio Must Broadly Support Science and Engineering Disciplines.* The Federal Government-wide investment strategy should support graduate and postdoctoral education and training across a broad spectrum of science and engineering disciplines. It is increasingly the case that advances in knowledge and understanding arise from research in multiple disciplines. Similarly, follow-on development often requires teams of individuals from varying science and engineering fields. A workforce with strengths across disciplines therefore is imperative if experts from differing backgrounds are to be able to bring complementary perspectives to bear on complex problems. Another factor underlying the importance of the disciplinary breadth of the workforce is our inability to predict the areas that will contribute to any given advancement in the future. Even a problem initially raised in the context of a single discipline often is solved due to unanticipated contributions from other disciplines.

• *Graduate Students and Postdoctoral Scholars Must Receive Quality Education and Training.* Graduate students and postdoctoral scholars must receive an experience that combines both a high quality education and robust research training to secure the Nation's future scientific and engineering enterprise. Attention to their intellectual growth during these critical years requires an environment that includes effective mentoring to promote their career development. Federal agencies should encourage the earliest possible completion of graduate and postdoctoral education and training, as well as efforts that foster the transition to the next step in the graduate student or postdoctoral scholar's career. As is the case for research programs, making award decisions through the use of merit review based on objective, expert advice promotes excellence in education and training through fellowship and traineeship programs.

• *Federal Contributions Toward Graduate and Postdoctoral Education and Training are Provided in Partnership With Academic and Other Non-Federal Institutions.* Graduate or postdoctoral education and training require a significant investment that includes financial support for the individual graduate student or postdoctoral scholar, and the investment needed for institutions to provide the education and training. Generally, a Federal fellowship or traineeship program provides only a portion of this investment, with the balance provided by funds from other sources including, for example, the host institution, other Federal programs, States, private sector organizations, and individual contributions. Consequently, the Federal contribution toward this investment is made in partnership with academic and other institutions or parties. Federal agencies, therefore, should consider the impact on, and consult as appropriate, its partners when designing and conducting fellowship and traineeship programs. Federal agencies should have, and be able to articulate, a rational basis for the level of the Federal program's contribution toward the education and training of the fellows or trainees.

• *Graduate Students and Postdoctoral Scholars Should Be Adequately Supported To Encourage Their Pursuit of Science and Engineering Careers.* The level of support, including health and other benefits, provided to foster the education and training of graduate students and postdoctoral scholars is an important factor in attracting and retaining talented individuals to pursue careers in science and engineering. Levels of support provided by agencies should be reasonable and commensurate with the level of education and experience of the recipient. Agencies should consider annual adjustments in levels of support to address increases in the cost-of-living. Variances in support levels provided by Federal agencies may, for example, depend on program purpose, program budget constraints, or demand for individuals in critical areas; however, such variations should have clear, rational bases.

• *Federal Agencies Should Collaborate in Areas of Common Interest.* It is important for Federal agencies to coordinate their efforts to support education and training in science and engineering areas of common interest. Efforts among agencies should be synergistic and provide enhanced opportunities for graduate students and postdoctoral scholars. Agencies should collaborate to share data regarding these programs; to exchange information regarding effective practices; and to coordinate the design and conduct of programs, as appropriate.

III. Proposed Process for Interagency Coordination

The Committee on Science (CoS) is also considering a proposal from its Education and Workforce Development (EWD) Subcommittee to establish a

standing working group with two purposes that promote implementation of the principles cited in Section II above. The first purpose of the working group is to serve as a forum for agencies to exchange information and collaborate with each other on their support of graduate and postdoctoral education and training. The second purpose of the working group is to report through the EWD Subcommittee to the CoS on levels of support provided by Federal extramural fellowship and traineeship programs.

IV. Invitation To Comment

Input on any aspect of the proposed principles or the proposed process for interagency coordination is encouraged. The following questions indicate particular areas for comment:

(a) Are there topics or issues not addressed in the principles that should be? If so, please explain.

(b) Are there additional approaches or strategies to achieve the objectives and promote interagency collaboration? If so, please explain.

M. David Hodge,

Acting Assistant Director for Budget and Administration.

[FR Doc. 05–22744 Filed 11–15–05; 8:45 am]

BILLING CODE 3710–W4–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

November 7, 2005.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before January 17, 2006. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit your Paperwork Reduction Act (PRA) comments by e-mail or U.S. postal mail. To submit you comments by e-mail send them to: *PRA@fcc.gov*. To submit your comments by U.S. mail, mark it to the attention of Judith B. Herman, Federal Communications Commission, 445 12th Street, SW, Room 1–C804, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Judith B. Herman at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0978.

Title: Compatibility with E911 Emergency Calling Systems, Fourth Report and Order.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 4,000 respondents; 16,000 responses.

Estimated Time Per Response: 2 hours.

Frequency of Response: Quarterly reporting requirement.

Total Annual Burden: 32,000 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Needs and Uses: This collection of information is needed to ensure persons with hearing and speech disabilities using text telephone (TTY) devices will be able to make 911 emergency calls over digital wireless systems. The Commission will use the information in the quarterly TTY reports to keep track of the carrier's progress in complying with E911 TTY requirements and also to monitor the progress technology is making towards compatibility with TTY devices. The Commission will submit this information collection to OMB after this 60 day comment period in order to obtain the full three year clearance from OMB.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–22606 Filed 11–15–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 011924.

Title: CSAL/CMA CGM Cross Slot Charter Agreement.

Parties: China Shipping Container Lines Co., Ltd.; China Shipping Container Lines (Hong Kong) Co., Ltd., and CMA CGM, S.A.

Filing Party: Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow & Textor LLP; 61 Broadway, Suite 3000; New York, NY 10006–2802.

Synopsis: The agreement allows the parties to charter space to each other on separate strings in the trades between U.S. Gulf and West Coast ports and ports in the Far East.

By order of the Federal Maritime Commission.

Dated: November 10, 2005.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 05–22748 Filed 11–15–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 017564N.

Name: Ace Cargo, Inc.

Address: 12534 Raymer Street, North Hollywood, CA 91605.

Date Revoked: October 1, 2005.

Reason: Failed to maintain a valid bond.

License Number: 000479F.
Name: Barian Shipping Company Inc.
Address: 910 Railroad Avenue, Woodmere, NY 11598.
Date Revoked: October 1, 2005.
Reason: Failed to maintain a valid bond.

License Number: 018155NF.
Name: Coastar Freight Services, Inc.
Address: 10370 Slusher Drive, #2, Santa Fe Springs, CA 90670.
Date Revoked: September 25, 2005.
Reason: Failed to maintain valid bonds.

License Number: 012101N.
Name: Global-Link International Inc.
Address: 1555 Mittel Drive, Suite F, Wood Dale, IL 60191.
Date Revoked: October 1, 2005.
Reason: Failed to maintain a valid bond.

License Number: 004286N.
Name: Joseph Esposito dba Mondo Comm International Ltd.
Address: 17 Main Street, Bloomingdale, NJ 07403.
Date Revoked: September 25, 2005.
Reason: Failed to maintain a valid bond.

License Number: 019429F.
Name: L.O. Trading Corporation
Address: 10800 NW. 21st Street, Suite 250, Miami, FL 33172.
Date Revoked: October 31, 2005.
Reason: Surrendered license voluntarily.

License Number: 011247N.
Name: Marine Express, Inc.
Address: P.O. Box 6448, Mayaguez, PR 00681–6448.
Date Revoked: October 6, 2005.
Reason: Surrendered license voluntarily.

License Number: 004606NF.
Name: N.I. Logistics American Corporation.
Address: 99 West Hawthorne Avenue, Suite 620, Valley Street, NY 11580.
Date Revoked: October 17, 2005.
Reason: Surrendered license voluntarily.

License Number: 002951F.
Name: O'Neill & Whitaker, Inc.
Address: 1809 Baltimore Avenue, Kansas City, MO 64108.
Date Revoked: October 24, 2005.
Reason: Surrendered license voluntarily.

License Number: 013735N.
Name: Sonictrans System Inc.
Address: 167–43 148th Avenue, Jamaica, NY 11434.
Date Revoked: October 1, 2005.
Reason: Failed to maintain a valid bond.

License Number: 004060F.
Name: Willson International Inc.
Address: 250 Cooper Avenue, Suite 102, Tonwanda, NY 14150.
Date Revoked: October 18, 2005.
Reason: Surrendered license voluntarily.

License Number: 004375NF.
Name: World-Wide Express, Inc.
Address: 8811 E. Garvey Avenue, Suite #205, Rosemead, CA 91770.
Date Revoked: September 15, 2005.
Reason: Surrendered license voluntarily.

Dated: November 10, 2005.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 05–22747 Filed 11–15–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel—Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel—Operating Common Carrier Ocean Transportation Intermediary Applicants

Ambiorix Cargo Express, Inc., 1416 Fulton Avenue, Bronx, NY 10456. Officers: Victor Rodriguez, President, (Qualifying Individual); Ambiorix Rodriguez, Secretary.

Atlantic Freight Services, Inc., 1068 Road, 28 Ports Zone Pueblo Viejo, San Juan, PR 00920. Officer: Ruben A. Rodriguez, President, (Qualifying Individual).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicant

JK Trading, Inc. dba Envios, 1756 SW 8th Street, Suite #207, Miami, FL 33135, Officers: Karen Duarte, President, (Qualifying Individual); Herbeth F. Duarte, Vice President.

Dated: November 10, 2005.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 05–22745 Filed 11–15–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/Address	Date reissued
004286NF	Joseph Esposito, dba Mondo Comm., International Ltd., 17 Main Street, Bloomingdale, NJ 07403.	September 25, 2005.

Dated: November 10, 2005.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 05–22746 Filed 11–15–05; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Toxicology Program (NTP); Center for the Evaluation of Risks to Human Reproduction (CERHR); Announcement of the Availability of the Di-(2-Ethylhexyl)Phthalate (DEHP) Update Expert Panel Report; Request for Public Comment

AGENCY: National Institute for Environmental Health Sciences (NIEHS); National Institutes of Health (NIH).

ACTION: Report availability and request for comment.

SUMMARY: The CERHR announces the availability of the DEHP update expert panel report on November 21, 2005 from the CERHR Web site (*http://cerhr.niehs.nih.gov*) or in print from the CERHR (see **ADDRESSES** below). The expert panel report is an updated evaluation of the reproductive and developmental toxicity of DEHP conducted by an 11-member expert panel composed of scientists from the Federal government, universities, and private organizations. The expert panel met in public on October 10–12, 2005, at the Holiday Inn Old Town Select Alexandria, Virginia to review and revise the draft expert panel report and reach conclusions regarding whether exposure to DEHP is a hazard to human development or reproduction. The expert panel also identified data gaps and research needs. The CERHR invites the submission of public comments on this expert panel report (see **SUPPLEMENTARY INFORMATION** below). The CERHR previously solicited public comment on the draft version of this expert panel report (70 FR 43870–43871, July 29, 2005).

DATES: The final DEHP update expert panel report will be available for public comment on November 21, 2005. Written public comments on this report should be received by January 4, 2006.

ADDRESSES: Comments on the expert panel report and any other correspondence should be sent to Dr. Michael D. Shelby, CERHR Director, NIEHS, P.O. Box 12233, MD EC–32, Research Triangle Park, NC 27709 (mail), (919) 316–4511 (fax), or *shelby@niehs.nih.gov* (e-mail). Courier address: CERHR, 79 T.W. Alexander Drive, Building 4401, Room 103, Research Triangle Park, NC 27709.

SUPPLEMENTARY INFORMATION:

Background

The NTP–CERHR convened an expert panel on October 10–12, 2005, to re-evaluate the reproductive and developmental toxicities of di(2-ethylhexyl)phthalate (DEHP, CAS RN: 117–81–7). DEHP is a high production volume chemical used as a plasticizer in the manufacture of a wide variety of consumer products. It is found in many consumer products, such as building products, car products, clothing, food packaging, children's products (but not in toys intended for mouthing), and in some medical devices made of polyvinyl chloride. The public can be exposed to DEHP by ingesting food or drink that has been in contact with DEHP-containing plastics and through medical procedures that use DEHP-containing plastics.

A previous CERHR expert panel evaluated DEHP in 1999–2000. However, since release of the earlier CERHR expert panel report on DEHP, approximately 150 papers relevant to human exposure and reproductive and/or developmental toxicity of DEHP have been published. The CERHR decided to update the evaluation of DEHP because of: (1) Widespread human exposure, (2) public and government interest in potential adverse health effects, and (3) the large number of relevant papers published since the earlier evaluation. Both the original and updated expert panel reports for DEHP are available on the CERHR Web site (*http://cerhr.niehs.nih.gov*). This is the first time a CERHR expert panel was convened to update an evaluation conducted by an earlier expert panel.

Following receipt of public comments on the DEHP update expert panel report, the CERHR staff will prepare an NTP–CERHR monograph on this chemical. NTP–CERHR monographs are divided into four major sections: (1) The NTP Brief which provides the NTP's interpretation of the potential for the chemical to cause adverse reproductive and/or developmental effects in exposed humans, (2) a roster of expert panel members, (3) the final expert panel report, and (4) any public comments received on that report. The NTP Brief is based on the expert panel report, public comments on that report, and any new information that became available after the expert panel meeting.

Request for Comments

The CERHR invites written public comments on the DEHP update expert panel report. Written comments should be sent to Dr. Michael Shelby at the address provided above. Persons submitting written comments are asked to include their name and contact information (affiliation, mailing address, telephone and facsimile numbers, e-mail, and sponsoring organization, if any). Any comments received will be posted on the CERHR Web site and be included in the NTP CERHR monograph on this chemical. All public comments will be considered by the NTP during preparation of the NTP Brief described above under ''Background.''

Background Information on the CERHR

The NTP established CERHR in June 1998 [63 FR 68782, Dec. 14, 1998]. CERHR is a publicly accessible resource for information about adverse reproductive and/or developmental health effects associated with exposure to environmental and/or occupational exposures. Expert panels conduct scientific evaluations of agents selected by CERHR in public forums.

CERHR invites the nomination of agents for evaluation or scientists for its expert registry. Information about CERHR and the nomination process can be obtained from its Web site (*http://cerhr.niehs.nih.gov*) or by contacting Dr. Shelby (see **ADDRESSES** above). CERHR selects chemicals for evaluation based upon several factors including production volume, potential for human exposure from use and occurrence in the environment, extent of public concern, and extent of data from reproductive and developmental toxicity studies.

CERHR follows a formal, multi-step process for review and evaluation of selected chemicals. The formal evaluation process was published in the **Federal Register** notice July 16, 2001 (66 FR 37047–37048, July 16, 2001) and is available on the CERHR Web site under ''About CERHR'' or in printed copy from the CERHR.

Dated: November 3, 2005.

David A. Schwartz,

Director, National Institute of Environmental Health Sciences and the National Toxicology Program.

[FR Doc. 05–22693 Filed 11–15–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–06–05AM]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–4794 or send an e-mail to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

National Program of Cancer Registries Annual Program Evaluation Instrument (NPCR–APEI)—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is responsible for administering and monitoring the National Program of Cancer Registries (NPCR). As of 1999, CDC supported 45 states, 3 territories, and the District of Columbia for population-based cancer registries. (The 5 remaining states receive federal funding for the operations of cancer registries through the National Cancer Institute.) The central cancer registries (CCR), the foundation of cancer prevention and control, provide information from the reporting jurisdictions and insure that quality and timely cancer surveillance data are available to CDC.

The NPCR Annual Program Evaluation Instrument (NPCR–APEI) is needed in order to receive, process, evaluate, aggregate and disseminate NPCR program information collected by NPCR registries and reported to CDC. Data collected with this instrument will be used by the NPCR to evaluate various attributes of the registries funded by NPCR, monitor NPCR registries' progress towards program standards and objectives, and compare an individual NPCR registry's progress towards standards with national program standards as well as those of SEER and NAACCR. There are no costs to respondents except their time to participate in the survey. The total estimated annualized burden hours are 74.

ESTIMATED ANNUALIZED BURDEN TABLE

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
CCR Program Directors and CCR staff	49	1	1.5

Dated: November 9, 2005.

Betsey Dunaway,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–22713 Filed 11–15–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–06–0621]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–4766 or send an e-mail to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

National Youth Tobacco Survey (OMB No.: 0920–0621)—Reinstatement with Change—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The purpose of this request is to reinstate OMB clearance of the National Youth Tobacco Survey, a national school-based study to be conducted in 2006. NCCDPHP wants to continue a biennial survey among middle and senior high school students attending regular public, private, and Catholic schools in grades 6–12. This survey was previously funded by the American Legacy Foundation in 1999, 2000, and 2002. The survey was funded by CDC in 2004. The survey covers the following tobacco-related topics: The prevalence of use of cigarettes, smokeless tobacco, cigars, pipe, bidis, and kreteks; knowledge and attitudes; media and advertising; minors' access and enforcement; school curriculum; environmental tobacco smoke exposure; and cessation. Tobacco use, a major preventable cause of morbidity and mortality in the U.S., is one of the 28 focus areas in Healthy People 2010. Within the Healthy People 2010 focus area of tobacco use, the National Youth Tobacco Survey provides data relevant to 6 health objectives. The survey also provides data to monitor one of the 10 leading health indicators for Healthy People 2010 that addresses tobacco use. In addition, the National Youth Tobacco Survey can identify racial and ethnic disparities in tobacco-related topics listed above.

The National Youth Tobacco Survey is the most comprehensive source of nationally representative data regarding high school students and tobacco. Moreover, the National Youth Tobacco Survey is the only source of such national data for middle school students (grades 6–8). The data have significant implications for policy and program development for school and community health programs nationwide. There is no other cost to respondents other than their time. The total annual burden hours is 18,643.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Students	24,500	1	45/60
State and School Education Officials	537	1	30/60

Dated: November 8, 2005.

Betsey Dunaway,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–22714 Filed 11–15–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a New System of Records

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of a new system of records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we propose to create a new system of records titled, ''Medicare True Out-of-Pocket (TrOOP) Expenditures System,'' HHS/CMS/OIS, System No. 09–70–0557. The TrOOP facilitation process is mandated by the Medicare Prescription Drug Benefit Program enacted into law December 8, 2003 under provisions of Section 101 of Title 1 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173). MMA amends Title XVIII, Section 1860D of the Social Security Act (the Act). Section 1860D–2 of the Act requires the tracking of beneficiaries' TrOOP expenditures. TrOOP costs are treated as ''incurred'' only if they were paid by the individual (or by another person, such as a family member, on behalf of the individual), paid on behalf of a low-income subsidy-eligible individual under the § 1860D–14 provisions, or paid under a State Pharmaceutical Assistance Program (SPAP) as defined in § 1860D–23. Section 1860D–2(b)(4)(D)(i) of the MMA authorizes CMS to establish procedures for determining whether costs for Part D enrollees are being reimbursed by excluded payers and alerting Part D plans about the existence of such payers.

The purpose of this system is to collect and maintain a master file to establish a ''TrOOP'' facilitation process, maintain information on individuals and entities that make payments on covered drugs under the Medicare Part D Program, and coordinate TrOOP relevant data from State Pharmaceutical Programs (SPAPs) and other health insurers. Information retrieved from this system may be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, grantee, consultant or other legal agent; (2) support Medicare Prescription Drug Plans (PDP) and Medicare Advantage Prescription Drug Plans (MAPD) directly or through a CMS contractor for the administration of Title XVIII of the Act; (3) assist another Federal or state agency with information to enable such agency to administer a Federal health benefits program, or to enable such agency to fulfill a requirement of Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; (4) assist Quality Improvement Organization (QIO) in connection with review of claims; (5) assist insurance companies and other groups providing protection against medical expenses of their enrollees; (6) assist an individual or organization engaged in the performance activities of the demonstration or in a research project or in support of an evaluation project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects; (7) support constituent requests made to a congressional representative; (8) support litigation involving the agency; and (9) combat fraud and abuse in certain health benefits programs. We have provided background information about the new system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed routine uses, CMS invites comments on all portions of this notice. See **EFFECTIVE DATE** section for comment period.

EFFECTIVE DATE: CMS filed a new SOR report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on 11/07/2005. In any event, we will not disclose any information under a routine use until 40 days after publication. We may defer implementation of this system or one or more of the routine use statements listed below if we receive comments that persuade us to defer implementation.

ADDRESSES: The public should address comment to the CMS Privacy Officer, Room N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location by appointment during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern time.

FOR FURTHER INFORMATION CONTACT: Henry Chao, Manager, Immediate Office of the Director, Office of Information Services, CMS, Room N3–19–23, 7500 Security Boulevard, Baltimore, Maryland 21244–1849, telephone number (410) 786–7811, e-mail *Henry.Chao@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION: In order to calculate TrOOP, Medicare Part D plans will have to determine if other entities have made payments on covered drugs, and whether such payments fall under the legal definition of incurred costs. If the payments by alternate payers, such as retiree prescription drug coverage, do not count toward the TrOOP threshold, then Part D plans must reduce the out-of-pocket amounts accumulated in their claims processing systems. Alternatively, if the payments by alternate payers, such as SPAPs, do count toward the TrOOP threshold, then the Part D plan will maintain the level of beneficiary out-of-pocket spending in their systems.

All Part D Plans will have to correctly calculate the TrOOP amount in order to properly adjudicate beneficiary claims, as well as to communicate to beneficiaries where they are in their benefits. Beneficiaries will expect that pharmacies will have all the information they need to determine their eligibility and to bill the appropriate payers and that plans will

have accurate real-time TrOOP calculations on demand.

The process, along with coordination of benefits (COB) is logistically complex because there may be multiple payers (e.g., SPAPs or employer or union retiree plans, etc.). True COB, in which the order of payment among multiple payers with responsibility for paying prescription drug claims on behalf of an individual is established and programmed into the systems of the alternate payers, does not take place in pharmacy benefit management today. In the absence of significant change, this would mean that Part D plans would have to separately set up procedures to coordinate benefits with every other payer with responsibility for drug coverage for one of their Part D enrollees.

Importantly, this process will enable Part D Plans to track and calculate a beneficiary's TrOOP expenditures in as near to real time as possible, so that when a beneficiary calls, they can retrieve accurate TrOOP information. In addition, the TrOOP level will be available on-line to correctly process the beneficiary's next claim. This will mean that beneficiaries will know when they have reached certain coverage limits or when they can expect even greater financial relief in the case of catastrophic coverage, and will have their claims processed correctly without the need for bringing in receipts or submitting other documentation from other coverage.

I. Description of the Proposed System of Records

A. Statutory and Regulatory Basis for SOR

The statutory authority for this system is given under Part D of Title XVIII of the Social Security Act, as amended by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

B. Collection and Maintenance of Data in the System

This system will maintain individually identifiable information on individuals and entities that make payments on covered drugs under the Medicare Part D Program. The collected information will contain name, address, health insurance claim number (HICN), gender type, and date of birth.

II. Agency Policies, Procedures, and Restrictions on the Routine Use

A. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a ''routine use.'' The Government will only release TrOOP information that can be associated with an individual as provided for under ''Section III. Proposed Routine Use Disclosures of Data in the System.'' Both identifiable and non-identifiable data may be disclosed under a routine use. We will only collect the minimum personal data necessary to achieve the purpose of TrOOP.

CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from the system will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected; e.g., to collect and maintain a master file to establish a ''TrOOP'' facilitation process, maintain information on individuals and entities that make payments on covered drugs under the Medicare Part D Program, and coordinate TrOOP relevant data from SPAPs and other health insurers.

2. Determines that:

a. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

b. Remove or destroy, at the earliest time, all patient-identifiable information; and

c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. Entities Who May Receive Disclosures Under Routine Use

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the TrOOP facilitator without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. We propose to establish or modify the following routine use disclosures of information maintained in the system:

1. To Agency contractors or consultants who have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this SOR and who need to have access to the records in order to assist CMS.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing a CMS function relating to purposes for this SOR.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or consultant whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or consultant from using or disclosing the information for any purpose other than that described in the contract and requires the contractor or consultant to return or destroy all information at the completion of the contract.

2. To Medicare Prescription Drug Plans (PDP) and Medicare Advantage Prescription Drug Plans (MAPD) directly or through a CMS contractor for the administration of Title XVIII of the Act.

PDPs and MAPDs require TrOOP information in order to establish the validity of evidence or to verify the accuracy of information presented by the individual, as it concerns the individual's entitlement to Part D benefits under the Medicare Prescription Drug Benefit Program.

3. To another Federal or state agency, agency of a state government, an agency

established by state law, or its fiscal agent pursuant to agreements with CMS to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits;

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; and/or

c. Assist Federal/state Medicaid programs within the state.

Other Federal or state agencies in their administration of a Federal health program may require TrOOP information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

The Internal Revenue Service may require TrOOP data for the application of tax penalties against employers and employee organizations that contribute to Employer Group Health Plan or Large Group Health Plans that are not in compliance with 42 U.S.C. 1395y(b).

In addition, state agencies in their administration of a Federal health program may require TrOOP information for the purposes of determining, evaluating and/or assessing cost, effectiveness, and/or the quality of health care services provided in the state.

Disclosure under this routine use shall be used by state Medicaid agencies pursuant to agreements with the HHS for determining Medicaid and Medicare eligibility, for quality control studies, for determining eligibility of recipients of assistance under Titles IV, XVIII, and XIX of the Act, and for the administration of the Medicaid program. Data will be released to the state only on those individuals who are patients under the services of a Medicaid program within the state or who are residents of that state.

We also contemplate disclosing information under this routine use in situations in which state auditing agencies require TrOOP information for auditing state Medicaid eligibility considerations. CMS may enter into an agreement with state auditing agencies to assist in accomplishing functions relating to purposes for this SOR.

4. To Quality Improvement Organization (QIO) in connection with review of claims, or in connection with studies or other review activities conducted pursuant to Part D of Title XVIII of the Act and in performing affirmative outreach activities to individuals for the purpose of establishing and maintaining their entitlement to Medicare Prescription Drug Program benefits or other drug plan benefits.

QIOs will work to implement quality improvement programs, provide consultation to CMS, its contractors, and to state agencies. QIOs will assist the state agencies in related monitoring and enforcement efforts, assist CMS and intermediaries in program integrity assessment, and prepare summary information for release to CMS.

5. To insurance companies, underwriters, third party administrators (TPA), employers, self-insurers, group health plans, health maintenance organizations (HMO), health and welfare benefit funds, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, other groups providing protection against medical expenses of their enrollees without the beneficiary's authorization, and any entity having knowledge of the occurrence of any event affecting: (a) An individual's right to any such benefit or payment, or (b) the initial right to any such benefit or payment, for the purpose of coordination of benefits with the Medicare program and implementation of the Medicare Secondary Payer (MSP) provision at 42 U.S.C. 1395y(b). Information to be disclosed shall be limited to Medicare utilization data necessary to perform that specific function. In order to receive the information, they must agree to:

a. Certify that the individual about whom the information is being provided is one of its insured or employees, or is insured and/or employed by another entity for whom they serve as a TPA;

b. Utilize the information solely for the purpose of processing the individual's insurance claims; and

c. Safeguard the confidentiality of the data and prevent unauthorized access.

Other insurers may require TrOOP information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

6. To an individual or organization for research, evaluation, or epidemiological projects related to the prevention of disease or disability, and the restoration or maintenance of health, or payment related projects.

TrOOP data will provide for research, evaluations and epidemiological projects, a broader, longitudinal, national perspective of the status of Medicare beneficiaries. CMS anticipates that many researchers will have legitimate requests to use these data in projects that could ultimately improve the care provided to Medicare beneficiaries and the policy that governs the care.

7. To a Member of Congress or congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

Beneficiaries often request the help of a Member of Congress in resolving an issue relating to a matter before CMS. The Member of Congress then writes CMS, and CMS must be able to give sufficient information to be responsive to the inquiry.

8. To the Department of Justice (DOJ), court, or adjudicatory body when:

a. The Agency or any component thereof, or

b. Any employee of the Agency in his or her official capacity, or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and, by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court, or adjudicatory body involved.

9. To a CMS contractor (including, but not limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contract or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud and abuse.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties.

In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

10. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

Other agencies may require TrOOP information for the purpose of combating fraud and abuse in such Federally-funded programs.

B. Additional Circumstances Affecting Routine Use Disclosures

This system contains Protected Health Information as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR parts 160 and 164, subparts A and E, 65 FR 82462 (12–28–00). Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.''

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary).

IV. Safeguards

CMS has safeguards in place for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations include but are not limited to: The Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: all pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

V. Effect of the Proposed System on Individual Rights

CMS proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. We will only disclose the minimum personal data necessary to achieve the purpose of TrOOP. Disclosure of information from the system will be approved only to the extent necessary to accomplish the purpose of the disclosure. CMS has assigned a higher level of security clearance for the information maintained in this system in an effort to provide added security and protection of data in this system.

CMS will take precautionary measures to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act.

CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of the disclosure of information relating to individuals.

Dated: October 27, 2005.

Charlene Frizzera,

Acting Chief Operating Officer, Centers for Medicare & Medicaid Services.

SYSTEM NO. 09–70–0557

SYSTEM NAME:

''True Out-of-Pocket (TrOOP) Expenditures System,'' HHS/CMS/OIS.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive Data.

SYSTEM LOCATION:

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850 and at various co-locations of CMS contractors.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system will maintain individually identifiable information on individuals and entities that make payments on covered drugs under the Medicare Part D Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The collected information will contain name, address, telephone number, health insurance claim number (HICN), gender type, and date of birth.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The statutory authority for this system is given under Part D of Title XVIII of the Social Security Act, as amended by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to collect and maintain a master file to establish a ''TrOOP'' facilitation process, maintain information on individuals and entities that make payments on covered drugs under the Medicare Part D Program, and coordinate TrOOP relevant data from State Pharmaceutical Programs (SPAPs) and other health insurers. Information retrieved from this system may be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, grantee, consultant or other legal agent; (2) support Medicare Prescription Drug Plans (PDP) and Medicare Advantage Prescription Drug Plans (MAPD) directly or through a CMS contractor for the administration of Title XVIII of the Act; (3) assist another Federal or state agency with information to enable such agency to administer a Federal health benefits program, or to enable such agency to fulfill a requirement of Federal statute or regulation that implements a health

benefits program funded in whole or in part with Federal funds; (4) assist Quality Improvement Organization (QIO) in connection with review of claims; (5) assist insurance companies and other groups providing protection against medical expenses of their enrollees; (6) assist an individual or organization engaged in the performance activities of the demonstration or in a research project or in support of an evaluation project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects; (7) support constituent requests made to a congressional representative; (8) support litigation involving the agency; and (9) combat fraud and abuse in certain health benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

C. Entities Who May Receive Disclosures Under Routine Use

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the TrOOP facilitator without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. We propose to establish or modify the following routine use disclosures of information maintained in the system:

To Agency contractors or consultants who have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this SOR and who need to have access to the records in order to assist CMS.

1. To Medicare Prescription Drug Plans (PDP) and Medicare Advantage Prescription Drug Plans (MAPD) directly or through the Enterprise Business Services, a CMS intermediary for the administration of Title XVIII of the Act.

2. To another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent pursuant to agreements with CMS to:

d. Contribute to the accuracy of CMS's proper payment of Medicare benefits;

e. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; and/or

f. Assist Federal/state Medicaid programs within the state.

3. To Quality Improvement Organization (QIO) in connection with review of claims, or in connection with studies or other review activities conducted pursuant to Part D of Title XVIII of the Act and in performing affirmative outreach activities to individuals for the purpose of establishing and maintaining their entitlement to Medicare Prescription Drug Program benefits or other drug plan benefits.

4. To insurance companies, underwriters, third party administrators (TPA), employers, self-insurers, group health plans, health maintenance organizations (HMO), health and welfare benefit funds, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, other groups providing protection against medical expenses of their enrollees without the beneficiary's authorization, and any entity having knowledge of the occurrence of any event affecting: (a) An individual's right to any such benefit or payment, or (b) the initial right to any such benefit or payment, for the purpose of coordination of benefits with the Medicare program and implementation of the Medicare Secondary Payer (MSP) provision at 42 U.S.C. 1395y (b). Information to be disclosed shall be limited to Medicare utilization data necessary to perform that specific function. In order to receive the information, they must agree to:

b. Certify that the individual about whom the information is being provided is one of its insured or employees, or is insured and/or employed by another entity for whom they serve as a TPA;

c. Utilize the information solely for the purpose of processing the individual's insurance claims; and

d. Safeguard the confidentiality of the data and prevent unauthorized access.

5. To an individual or organization for research, evaluation, or epidemiological projects related to the prevention of disease or disability, and the restoration or maintenance of health, or payment related projects.

6. To a Member of Congress or congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

7. To the Department of Justice (DOJ), court, or adjudicatory body when:

d. The Agency or any component thereof, or

e. Any employee of the Agency in his or her official capacity, or

f. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

g. The United States Government, is a party to litigation or has an interest in such litigation, and, by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

8. To a CMS contractor (including, but not limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

9. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

D. Additional Circumstances Affecting Routine Use Disclosures

This system contains Protected Health Information as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR parts 160 and 164, subparts A and E, 65 FR 82462 (12–28–00). Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.''

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the

enrollees could, because of the small size, use this information to deduce the identity of the beneficiary).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored electronically. Some input may be generated in hardcopy, such as eligibility, enrollment, or other health insurance information before transcription to electronic media.

RETRIEVABILITY:

The collected data are retrieved by an individual identifier; e.g., beneficiary name or HIC number.

SAFEGUARDS:

CMS has safeguards in place for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations include but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: all pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

RETENTION AND DISPOSAL:

CMS will retain information for a total period not to exceed 25 years. Data residing with the TrOOP facilitation contractor site agent shall be returned to CMS at the end of the contract period, with all data then being the responsibility of CMS for adequate storage and security.

SYSTEM MANAGER AND ADDRESS:

Henry Chao, Manager, Immediate Office of the Director, Office of Information Services, CMS, Room N3–19–23, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

NOTIFICATION PROCEDURE:

For the purpose of access, the subject individual should write to the system manager who will require the system name, address, age, gender type, and, for verification purposes, the subject individual's name (woman's maiden name, if applicable).

RECORD ACCESS PROCEDURE:

For the purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR, parts 160, 162, and 164.)

CONTESTING RECORDS PROCEDURES:

The subject individual should contact the system manager named above and reasonably identify the records and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 05–22657 Filed 11–15–05; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0425]

Agency Information Collection Activities; Proposed Collection; Comment Request; General Administrative Procedures: Citizen Petitions; Petition for Reconsideration or Stay of Action; Advisory Opinions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the reporting requirements contained in existing FDA regulations regarding the general administrative procedures for a person to take the following actions: Petition the Commissioner of Food and Drugs (the Commissioner) to issue, amend, or revoke a rule; file a petition for an administrative reconsideration or an administrative stay of action; and request an advisory opinion from the Commissioner.

DATES: Submit written or electronic comments on the collection of information by January 17, 2006.

ADDRESSES: Submit electronic comments on the collection of information to: *http://www.fda.gov/dockets/ecomments*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites

comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

General Administrative Procedures: Citizen Petitions; Petition for Reconsideration or Stay of Action; Advisory Opinions—(21 CFR Part 10) (OMB Control Number 0910–0183)—Extension

The Administrative Procedures Act (5 U.S.C. 553(e)), provides that every agency shall give an interested person the right to petition for issuance, amendment, or repeal of a rule. Under part 10 (21 CFR part 10), § 10.30 sets forth the format and procedures by which an interested person may submit to FDA, in accordance with § 10.20 (submission of documents to the Division of Dockets Management), a citizen petition requesting the Commissioner to issue, amend, or revoke a regulation or order, or to take or refrain from taking any other form of administrative action.

The Commissioner may grant or deny such a petition, in whole or in part, and may grant such other relief or take other action as the petition warrants. Respondents are individuals or households, State or local governments, not-for-profit institutions, and businesses or other for-profit institutions or groups.

Section 10.33, issued under section 701(a) of the Federal, Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 371(a)), sets forth the format and procedures by which an interested person may request reconsideration of part or all of a decision of the Commissioner in a petition submitted under § 10.25 (initiation of administrative proceedings). A petition for reconsideration must contain in a well-organized format a full statement of the factual and legal grounds upon which the petition relies. The grounds must demonstrate that relevant information and views contained in the administrative record were not previously or not adequately considered by the Commissioner. The respondent must submit a petition no later than 30 days after the decision has been made. However, the Commissioner may, for good cause, permit a petition to be filed after 30 days. An interested person who wishes to rely on information or views not included in the administrative record shall submit them with a new petition to modify the decision. FDA uses the information provided in the request to determine whether to grant the petition for reconsideration. Respondents to this collection of information are individuals or households, State or local governments, not-for-profit institutions, and businesses or other for-profit institutions who are requesting a reconsideration of a matter from the Commissioner.

Section 10.35, issued under section 701(a) of the act, sets forth the format and procedures by which an interested person may request, in accordance with § 10.20 (submission of documents to Division of Dockets Management), the Commissioner to stay the effective date of any administrative action.

Such a petition must provide the following information: (1) The decision involved; (2) the action requested, including the length of time for which a stay is requested; and (3) a statement of the factual and legal grounds on which the interested person relies in seeking the stay. FDA uses the information provided in the request to determine whether to grant the petition for a stay of action. Respondents to this information collection are interested persons who choose to file a petition for an administrative stay of action.

Section 10.85, issued under section 701(a) of the act, sets forth the format and procedures by which an interested person may request, in accordance with § 10.20 (submission of documents to the Division of Dockets Management), an advisory opinion from the Commissioner on a matter of general applicability. An advisory opinion represents the formal position of FDA on a matter of general applicability. When making a request, the petitioner must provide a concise statement of the issues and questions on which an opinion is requested, and a full statement of the facts and legal points relevant to the request. Respondents to this collection of information are interested persons seeking an advisory opinion from the Commissioner on the agency's formal position for matters of general applicability.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
10.30	156	3	468	12	5,616
10.33	10	2	20	10	200
10.35	13	2	26	10	260
10.85	2	1	2	16	32
Total					6,108

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden estimates for this collection of information are based on agency records and experience over the past 3 years. Agency personnel handling the petitions regarding § 10.30 received approximately 156 citizen petitions annually, each required an average of 12 hours of preparation time. The agency received approximately 10 requests annually regarding § 10.33 (administrative reconsideration of an action), each required an average of 10 hours of preparation time. Regarding § 10.35 (administrative stay of an action), the agency received approximately 13 requests annually, each required an average of 10 hours of preparation time. Lastly, regarding

petitions for § 10.85 (advisory opinions), the agency received approximately 2 requests annually, each required an average of 16 hours of preparation time.

Dated: November 8, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–22668 Filed 11–15–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0290]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Importer's Entry Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by December 16, 2005.

ADDRESSES: OMB is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Fumie Yokota, Desk Officer for FDA, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Importer's Entry Notice—(OMB Control Number 0910–0046)—Extension

Section 801 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 381) charges FDA with the following responsibilities: (1) Ensuring that foreign-origin FDA-regulated foods, drugs, cosmetics, medical devices, and radiological health products offered for import into the United States meet the same requirements of the act as do domestic products; and (2) preventing shipments from entering the country if they are not in compliance.

The information collected by FDA consists of the following: (1) Product code, an alpha-numeric series of characters that identifies each product FDA regulates; (2) FDA country of origin, the country where the FDA-registered or FDA-responsible firm is located; (3) FDA manufacturer, the party who manufactured, grew, assembled, or otherwise processed the goods (if more than one, the last party who substantially transformed the product); (4) shipper, the party responsible for packing, consolidating, or arranging the shipment of goods to their final destinations; (5) quantity and value of the shipment; and (6) if appropriate, affirmation of compliance, a code that conveys specific FDA information, such as registration number, foreign government certification, etc. This information is collected electronically by the entry filer via the U.S. Customs Service's Automated Commercial System at the same time that person files an entry for import with the U.S. Custom Service. FDA uses this information to make admissibility decisions about FDA-regulated products offered for import into the United States.

The annual reporting burden is derived from the basic processes and procedures used in fiscal year (FY) 1995. The total number of entries submitted to the automated system in FY 2004 was 6,626,827. The total number of entries less the disclaimer entries will represent the total FDA products entered into the automated system. A total of 53 percent of all entries entered into the automated system were entries dealing with FDA-regulated products. The number of respondents is a count of filers who submit entry data for foreign-origin FDA-regulated products. The estimated reporting burden is based on information obtained by FDA while contacting potential respondents. Disclaimer entries are not FDA commodities.

In the **Federal Register** of August 3, 2005 (70 FR 44656), FDA published a 60-day notice requesting public comment on the information collection provisions. One comment was received.

The Government of Canada is concerned that the methodology used does not take into consideration the additional burden of FDA's interim final prior notice and regulation rules which came into effect December 2003. They urged FDA to amend the methodology used to take into consideration the additional burden associated with all requirements for providing information concerning foreign-origin FDA-regulated foods. Of particular concern is the burden resulting from the implementation of the prior notice and regulation rules under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

The burden for the prior notice and regulation rules is reported and approved under OMB Control Number 0910–0520; expiration date October 31, 2006.

FDA estimates the burden of the collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 U.S.C. Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
801	3,406	1,089	3,709,134	.14	519,279

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: November 8, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–22671 Filed 11–15–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0427]

Agency Information Collection Activities; Proposed Collection; Comment Request; Filing Objections and Requests for a Hearing on a Regulation or Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on requirements for filing objections and requests for a hearing on a regulation or order.

DATES: Submit written or electronic comments on the collection of information by January 17, 2006.

ADDRESSES: Submit electronic comments on the collection of information to: *http://www.fda.gov/dockets/ecomments*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Filing Objections and Requests for a Hearing on a Regulation or Order—21 CFR Part 12 (OMB Control Number 0910–0184)—Extension

Under part 12 (21 CFR part 12), § 12.22, issued under section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 371(e)(2)), sets forth the instructions for filing objections and requests for a hearing on a regulation or order under § 12.20(d). Objections and requests must be submitted within the time specified in § 12.20(e). Each objection for which a hearing has been requested must be separately numbered and specify the provision of the regulation or the proposed order. In addition, each objection must include a detailed description and analysis of the factual information and any other document, with some exceptions, supporting the objection. Failure to include this information constitutes a waiver of the right to a hearing on that objection. FDA uses the description and analysis to determine whether a hearing request is justified. The description and analysis may be used only for the purpose of determining whether a hearing has been justified under § 12.24 and do not limit the evidence that may be presented if a hearing is granted.

Respondents to this information collection are those parties that may be adversely affected by an order or regulation.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
12.22	10	1	10	20	200

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden estimate for this collection of information is based on past filings. Agency personnel responsible for processing the filing of objections and requests for a public hearing on a specific regulation or order estimate approximately 10 requests are received by the agency annually, with each requiring approximately 20 hours of preparation time.

Dated: November 8, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–22753 Filed 11–15–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 1998D–0834 (formerly Docket No. 98D–0834]

Draft Guidance for Industry on Noncontraceptive Estrogen Drug Products for the Treatment of Vasomotor Symptoms and Vulvar and Vaginal Atrophy Symptoms—Recommended Prescribing Information for Health Care Providers and Patient Labeling; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Noncontraceptive Estrogen Drug Products for the Treatment of Vasomotor Symptoms and Vulvar and Vaginal Atrophy Symptoms—Recommended Prescribing Information for Health Care Providers and Patient Labeling.'' The draft guidance is intended to assist applicants in developing labeling for new drug applications (NDAs) for such drug products. This is the fifth draft of the guidance, which FDA initially published for comment in October 1998.

DATES: Submit written or electronic comments on the draft guidance by January 17, 2006. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Margaret Kober, Center for Drug Evaluation and Research (5359), Food and Drug Administration, 10903 New Hampshire Ave., bldg. 22, rm. 5376, Silver Spring, MD 20993, 301–796–0934.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance entitled ''Noncontraceptive Estrogen Drug Products for the Treatment of Vasomotor Symptoms and Vulvar and Vaginal Atrophy Symptoms—Recommended Prescribing Information for Health Care Providers and Patient Labeling.'' The draft guidance describes the recommended labeling for health care providers and patient instructions for inclusion in NDAs.

A draft of this guidance was first issued on October 15, 1998 (63 FR 55399). After public review and comment, a second version of this draft guidance was issued on September 27, 1999 (64 FR 52100). On May 31, 2002, the National Institutes of Health Women's Health Initiative (WHI) study of oral conjugated estrogens (CE 0.625 milligram (mg)) plus medroxyprogesterone acetate (MPA 2.5 mg)/day in postmenopausal women was stopped after a mean of 5.2 years of followup because test statistics for invasive breast cancer exceeded the stopping boundary for this adverse effect and the global index statistic supported risks exceeding benefits. Data on the major clinical outcomes regarding increased risks for invasive breast cancer, heart attacks, strokes, and venous thromboembolism rates, including pulmonary embolism, became available July 17, 2002. Consequently, the agency withdrew the draft guidance on September 10, 2002 (67 FR 57432), pending consideration of the results from the WHI study. In the **Federal Register** of February 3, 2003 (68 FR 5300), the agency issued a third draft reflecting the agency's thinking after consideration of the results from the WHI study concerning overall risks and benefits of hormone therapy for postmenopausal symptoms.

A fourth draft of this guidance was issued on February 17, 2004 (69 FR 7492), to address comments received, incorporate new study results from the Women's Health Initiative Memory Study (WHIMS), a substudy of the WHI study, and better inform prescribers and patients regarding the availability of the lowest effective dose for these drug products. (The results of the WHIMS substudy were published on May 28, 2003. Postmenopausal women, 65 to 79 years of age, during 4 years of treatment with CE 0.625 mg plus MPA 2.5 mg/day had a greater risk of developing probable dementia than those on placebo.)

The agency is issuing this fifth draft of the guidance to incorporate new study results from the WHI and WHIMS studies. This fifth draft supersedes the fourth draft, and retains and updates the labeling recommendations regarding the results of the WHI study and the WHIMS substudy for postmenopausal women treated with CE 0.625 mg plus MPA 2.5 mg/day. It also reflects the agency's thinking after consideration of the results published on April 14, 2004, of the WHI study, and the results published on June 23/30, 2004, of the WHIMS substudy for postmenopausal women with prior hysterectomy treated with CE 0.625 mg/day alone. The WHI study of CE 0.625 mg/day alone in postmenopausal women with prior hysterectomy was stopped after a mean followup of 6.8 years because of an increased risk of stroke. The WHIMS substudy of CE 0.625 mg/day alone was stopped after a mean followup of 5.2 years. Estrogen-alone therapy did not reduce probable dementia or cognitive decline incidence and increased the risk for both endpoints combined. This fifth draft of the guidance recommends adding risk information related to the results of the WHI and WHIMS estrogen-alone studies to appropriate sections of labeling including the boxed warning. Further revisions to the guidance may be necessary as additional information becomes available.

This level 1 draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on labeling for noncontraceptive estrogen drug products for the treatment of moderate to severe vasomotor symptoms and moderate to severe vulvar and vaginal atrophy symptoms. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/cder/guidance/index.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: November 8, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–22754 Filed 11–15–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel. NEI Clinical applications.

Date: November 21, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Anne E. Schaffner, PhD, Scientific Review Administrator, Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892–9300. (301) 451–2020. *aes@nei.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: November 4, 2005.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–22691 Filed 11–15–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Clinical Trial Review.

Date: December 5, 2005.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: William J. Johnson, PhD, Review Branch, Division of Extramural Affairs, NIH/NHLBI, 6701 Rockledge Drive, Bethesda, MD 20892–7924, 301–435–0317, *johnsonw@nhibi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: November 7, 2005.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–22684 Filed 11–15–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, RFA–05–015 ''Clinical Outcomes of Live Organ Donors''.

Date: December 1–2, 2005.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Kenneth E. Santora, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, Room 3265, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, (301) 451–2605, *ks216i@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 7, 2005.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–22682 Filed 11–15–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel, NIH–NIBIB P01–J3 Review Meeting.

Date: November 18, 2005.

Time: 8 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Park Hotel, 840 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Prabha L. Atreya, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of Biomedical Imaging, and Bioengineering, Bethesda, MD 20892, (301) 496–8633, *atreyapr@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel, NIBIB–R13 Conference Review Meeting.

Date: December 7, 2005.

Time: 10 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: II Democracy Plaza, Dem. II, 6707 Democracy Blvd. 223, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Bonnie Dunn, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Blvd., Suite 920, Bethesda, MD 20892, (301) 496–8633, *dunnbo@mail.nih.gov.*

Dated: November 7, 2005.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–22683 Filed 11–15–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Review of Time Sensitive Applications.

Date: November 14, 2005.

Time: 2 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Meenaxi Hiremath, PhD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6101 Executive Blvd., Suite 220, MSC 8401, Bethesda, MD 20892, 301–402–7964, *mh392g@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 7, 2005.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–22686 Filed 11–15–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. Review of R03 Grant Application.

Date: November 28, 2005.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Neal A. Musto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 751, 6707 Democracy Boulevard, Bethesda, MD 20892–5452. (301) 594–7798. *muston@extra.niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 4, 2005.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–22687 Filed 11–15–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel. Fellowship Review.

Date: November 29, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Willard Hotel, 1401 Pennsylvania Avenue, Washington, DC 20004.

Contact Person: Joann McConnell, PhD., Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529. (301) 496–5324. *mcconnej@ninds.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel. Cell Biology of Parkinson's Disease.

Date: December 1, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points Sheraton BWI, 7032 Elm Road, Baltimore, MD 21240.

Contact Person: Shantadurga Rajaram, PhD, Scientific Review Administrator, Scientific Review Branch NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20852. (301) 435–6033. *rajarams@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: November 4, 2005.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–22690 Filed 11–15–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarrantaed invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Diet and Neurophysiological Processes.

Date: November 17, 2005.

Time: 9:15 a.m. to 10:15 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gayle M. Boyd, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3028–D, MSC 7759, Bethesda, MD 20892, 301–451–9956, *gboyd@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Infant Psychobiology and Maternal Depression.

Date: November 18, 2005.

Time: 10:30 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anita Miller Sostek, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7184, Bethesda, MD 20892, 301–435–1260, *sosteka@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Child Nutrition and Obesity Prevention.

Date: November 18, 2005.

Time: 10:30 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Confernce Call).

Contact Person: Gayle M. Boyd, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3028–D, MSC 7759, Bethesda, MD 20892, 301–451–9956, *gboyd@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Axonal Outgrowth/Regulation of Protein Synthesis.

Date: November 21, 2005.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Syed Husain, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7850, Bethesda, MD 20892, (301) 435–1224, *husains@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Skeletal Muscle and Exercise Physiology.

Date: November 30, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 25th Street, NW., Washington, DC 20037.

Contact Person: J. Terrell Hoffeld, DDS, PhD, Dental Officer, USPHS, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, (301) 435–1781, *hoffeldt@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Program Project Evaluation.

Date: December 5, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Nuria E. Assa-Munt, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3120, MSC 7806, Bethesda, MD 20892, (301) 451–1323, *assamunu@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Musculoskeletal Rehabilitation Sciences.

Date: December 6, 2005.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Daniel F. McDonald, PhD, Scientific Review Administrator, Chief, MOSS IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, (301) 435–1215, *mcdonald@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Behavioral Genetics.

Date: December 7, 2005.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lawrence Baizer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7850, Bethesda, MD 20892, (301) 435–1257, *baizerl@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 7, 2005.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–22685 Filed 11–15–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Skeletal Muscle and Exercise Physiology Study Section, November 14, 2005, 8:30 a.m. to November 15, 2005, 4 p.m., Wyndham Washington, DC, 1400 M Street, NW., Washington, DC 20005 which was published in the **Federal Register** on November 1, 2005, 70 FR 65919–65922.

The meeting will be held at the Marriott Crystal Hotel, 1999 Jefferson Davis Highway, Arlington, VA 22202. The meeting dates and time remain the same. The meeting is closed to the public.

Dated: November 4, 2005.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–22688 Filed 11–15–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, November 9, 2005, 8 a.m. to November 10, 2005, 5 p.m., The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037 which was published in the **Federal Register** on November 1, 2005, 70 FR 65914–65918.

The meeting title has been changed to ''Innate Immunity and Inflammation.'' The meeting is closed to the public.

Dated: November 4, 2005.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–22689 Filed 11–15–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Member Conflict: Substance Abuse Epidemiology.

Date: November 14, 2005.

Time: 9:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3028B, MSC 7770, Bethesda, MD 20892. (301) 435–1262. *chanetsaf@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Mental Health Genetics.

Date: November 14, 2005.

Time: 10:30 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3028B, MSC 7770, Bethesda, MD 20892. (301) 435–1262. *chanetsaf@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Member Conflict: Behavioral Genetics.

Date: November 14, 2005.

Time: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3028B, MSC 7770, Bethesda, MD 20892. (301) 435–1262. *chanetsaf@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Member Conflict: Mental Health—Epidemiology.

Date: November 14, 2005.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3028B, MSC 7770, Bethesda, MD 20892. (301) 435–1262. *chanetsaf@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Member Conflict: Mental Health.

Date: November 14, 2005

Time: 2:30 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3028B, MSC 7770, Bethesda, MD 20892. (301) 435–1262. *chanetsaf@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Member Conflict: Environmental and Early Reading.

Date: November 14, 2005.

Time: 3:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3028B, MSC 7770, Bethesda, MD 20892. (301) 435–1262. *chanetsaf@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Dendritic

Cells in Transplantation, Tolerance, and Tumor Immunity.

Date: November 15, 2005.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Cathleen L. Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892. 301–435–3566. *cooperc@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Panel. Mouse Genetics and Genomics.

Date: November 17, 2005.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Camilla E. Day, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7890, Bethesda, MD 20892. (301) 435–1037. *dayc@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. DNA Repair/Replication/Recombination.

Date: November 22, 2005.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Richard A. Currie, PhD, Scientific Review Administration, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892. (301) 435–1219. *currieri@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Biological Chemistry and Biophysics Special Review Panel.

Date: November 29, 2005.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Janet Nelson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892. 301–435–1723. *nelsonja@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Dopamine Transporter and Olfactory Processing.

Date: December 6, 2005.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Peter B. Guthrie, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7850, Bethesda, MD 20892. (301) 435–1239. *guthriep@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Extracellular Matrix and Cardiac Hypertrophy.

Date: December 8, 2005.

Time: 2:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Maqsood A. Wani, PhD, DvM, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040A, MSC 7814, Bethesda, MD 20892. 301–435–2270.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Small Business Occupational Health.

Date: December 9, 2005.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Philadelphia Marriott Downtown, 1201 Market Street, Philadelphia, PA 19107.

Contact Person: Charles N. Rafferty, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7816, Bethesda, MD 20892. 301–435–3562. *raffertc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel. Member Conflict-Neuroimmonology.

Date: December 12, 2005.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892. 301–435–1245. *marcusr@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 4, 2005.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–22692 Filed 11–15–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[DHS–2005–0047]

Data Privacy and Integrity Advisory Committee

AGENCY: Office of the Secretary, Department of Homeland Security (DHS).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The notice announces the date, time, location, and agenda for the next meeting of the Department of Homeland Security Data Privacy and Integrity Advisory Committee. This meeting will include a partially closed session.

DATES: The meeting will be held on Tuesday, December 6, 2005, in Washington, DC.

ADDRESSES: The Department of Homeland Security Data Privacy and Integrity Advisory Committee meeting will be held in the Capitol Ballroom (E & F) at the JW Marriott Hotel, 1331 Pennsylvania Avenue, Washington, DC 20004. Persons wishing to make comments or who are unable to attend or speak at the meeting may submit comments at any time. Comments must be identified by DHS–2005–0047 and may be submitted by any *one* of the following methods:

- Federal Rulemaking Portal: *http://www.regulations.gov*. Follow instructions for submitting comments on the Web site.
- E-mail: *PrivacyCommittee@dhs.gov*. Include docket number in the subject line of the message.
- Fax: 571–227–4171.
- Mail: Ms. Rebecca J. Richards, Executive Director, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Mail Stop C–3, Arlington, VA 22202.

Instructions: All submissions received must include the Department of Homeland Security and DHS–2005–0047, the docket number for this action. Comments received will be posted without alternation at *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or

comments received by the DHS Data Privacy and Integrity Committee, go to *http://www.regulations.gov*.

Comments received will be posted without alteration at *http://www.dhs.gov/privacy*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Maureen Cooney, Acting Chief Privacy Officer, or Rebecca J. Richards, Executive Director, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Arlington, VA 22202 by telephone (571) 227–3813, by facsimile (571) 227–4171, or by e-mail *PrivacyCommittee@dhs.gov.*

SUPPLEMENTARY INFORMATION: The DHS Data Privacy and Integrity Advisory Committee (Committee) will be meeting on Tuesday December 6, 2005, in the Capitol Ballroom (E&F) at the JW Marriott Hotel, 1331 Pennsylvania Avenue, Washington, DC 20004. The meeting will begin at 8:30 a.m. and continue until 4:30 p.m. Although most of the meeting is open to the public, there will be a closed session between 12:30 p.m. and 1:30 p.m., in order to permit the Privacy Advisory Committee members to discuss administrative and planning items, including future meetings and a timeline for possible subcommittee reports to the full Committee.

At the meeting, the Acting Chief Privacy Officer will provide an update on the activities of the Privacy Office. The subcommittees will update the Committee on the work currently being conducted and plan to finalize the *Framework for Privacy Analysis of Programs, Technologies, and Applications* that was discussed at the September 28, 2005, Meeting in Bellingham, WA. This document can be found at *http://www.dhs.gov/privacy* and the Committee is seeking comment on it. Finally, in the morning there will be a panel discussion on the uses of data analytics in the public sector.

In the afternoon, there will be a panel presentation by various redress offices at DHS on policies and procedures for handling citizen concerns. This will be followed by a panel of international privacy commissioners discussing cross border cooperation.

Public comments will be accepted during the meeting, between 4 p.m. and 4:30 p.m. All those who wish to testify during this time may register in advance or sign-up on the day of the meeting. In order to allow as many people as possible to testify, witnesses should limit their remarks to three minutes. Due to limited seating, any member of the public who wishes to attend the public session should provide his or her name no later than 12 p.m. EST, Thursday, December 1, 2005, to Rebecca J. Richards via e-mail at *PrivacyCommittee@dhs.gov*, or via telephone at (571) 227–3813.

Photo identification will be required for entry on the day of the meeting to verify those individuals who have registered for the public session, and everyone who plans to attend should be present and seated by 8:15 a.m. for the morning session and 1:15 p.m., for the afternoon session. Registration information required for attendance will be used for verification purposes on the day of the meeting. Attendance information, including names of members of the public attending, will be made public as part of the official meeting minutes.

Persons with disabilities who require special assistance should indicate this in their admittance request and are encouraged to identify anticipated special needs as early as possible.

Although every effort will be made to accommodate all members of the public, seating is limited and will be allocated on a first-come, first-served basis.

Basis for Closure: Portions of this Committee meeting for administrative and planning purposes which are referenced above are excluded from the Open Meetings requirement pursuant to the authority contained in 41 CFR part 102–3.160(b).

Dated: November 2, 2005.

Maureen Cooney,

Acting Chief Privacy Officer.

[FR Doc. 05–22711 Filed 11–15–05; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Departmental Advisory Committee on Commercial Operations of Customs and Border Protection and Related Functions (COAC)

ACTION: Notice of meeting.

SUMMARY: This notice announces the date, time, and location for the fourth meeting of the ninth term of the Departmental Advisory Committee on Commercial Operations of Customs and Border Protection and Related Functions (COAC), and the expected agenda for its consideration.

DATES: The next meeting of the COAC will be held on Thursday, December 1, 2005, 9 a.m. to 1 p.m.

ADDRESSES: The meeting will be held in the ''Pavillion'' of the Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Monica Frazier, Office of the Assistant Secretary for Policy, Department of Homeland Security, Washington, DC 20528, telephone 202–282–8431; facsimile 202–282–8504. Members of the public may submit written comments at any time before or after the meeting to the contact person for consideration by this Advisory Committee.

SUPPLEMENTARY INFORMATION: The fourth meeting of the ninth term of the Departmental Advisory Committee on Commercial Operations of Customs and Border Protection and Related Functions (COAC) will be held at the date, time and location specified above. This notice also announces the expected agenda for that meeting below. This meeting is open to the public; however, participation in COAC deliberations is limited to COAC members, Homeland Security and Treasury Department officials, and persons invited to attend the meeting for special presentations. Since seating is limited, all persons attending this meeting should provide notice preferably by close of business Monday, November 28, 2005, to Ms. Monica Frazier, Office of the Assistant Secretary for Policy, Department of Homeland Security, Washington, DC 20528, telephone 202–282–8431; facsimile 202–282–8504.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Monica Frazier, Office of the Assistant Secretary for Policy, Department of Homeland Security, Washington, DC 20528, telephone 202–282–8431; facsimile 202–282–8504, as soon as possible.

Draft Agenda

1. Introductory Remarks
2. DHS Second Stage Review (''2SR'') and the Secure Freight Initiative
3. Update on HSPD–13, Maritime Security Policy
4. Security Subcommittee—C–TPAT (Customs-Trade Partnership Against Terrorism'')
   - A. Carrier Criteria
   - B. Benefits
   - C. Automation
   - D. Performance Measures
5. Update on Green Lane Task Force
6. Radiation Portal Monitoring Implementation Issues

7. World Customs Organization Framework/Implementation
8. Centralization of Bond Processing
9. Update from CBP
   A. Textiles & Apparel Entry Processing
   A. International Trade Data Systems
   B. Update on ACE (Automated Commercial Environment)
   D. FDA/USDA Update
10. Broker Confidentiality
11. New Action Items
12. Adjourn

Dated: November 10, 2005.

Stewart A. Baker,

Assistant Secretary for Policy, United States Department of Homeland Security.

[FR Doc. 05–22679 Filed 11–15–05; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

[Docket No. USCBP–2005–0036]

Customs and Border Protection Airport and Seaport Inspections User Fee Advisory Committee

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The U.S. Customs and Border Protection Airport and Seaport Inspections User Fee Advisory Committee will hold a meeting on November 30, 2005. This meeting will be open to the public.

DATES: Wednesday, November 30, 2005.

ADDRESSES: The meeting will be held at Customs International Briefing Conference Room (B 1.5–10), Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Washington, DC 20229 from 12:30 p.m.—4 p.m. Members of the public may submit written comments at any time before or after the meeting to the contact person for consideration by this Advisory Committee. Written comments received by the contact person prior to the meeting will be considered for discussion at the meeting. A transcript of the meeting will be made available online for public viewing about two weeks following the meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Roberto Williams, Office of Finance, Room 4.5A, 1300 Pennsylvania Avenue, NW., Washington, DC 20229; telephone: (202) 344–1101; e-mail: *Roberto.M.Williams@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Agenda of Meeting

The agenda of the November 30 meeting is expected to include:

1. Introduction of the Committee members;
2. Discussion of activities since last meeting;
3. Discussion of workload and financial issues;
4. Discussion of future traffic trends;
5. Discussion of specific concerns and questions of Committee members;
6. Discussion of relevant written statements submitted in advance by members of the public;
7. Discussion of Committee administrative issues and scheduling of next meeting

Background on the CBP Airport and Seaport Inspections User Fee Advisory Committee

The CBP Airport and Seaport Inspections User Fee Advisory Committee (hereinafter the ''Advisory Committee'') was created under the authority of Section 286(k) of the Immigration and Nationality Act of 1952, as amended by the Department of Justice Appropriations Act of 1986 [Pub. L. 99–59; enacted October 30, 1986] (8 U.S.C. 1356(k)). Formerly known as the Immigration and Naturalization Service (INS) Airport and Seaport Inspections User Fee Advisory Committee, the original Advisory Committee was responsible only for immigration airport and seaport inspectional services and associated user fees. The Executive Associate Commissioner, Immigration and Naturalization Service (INS) chaired that advisory committee.

The Homeland Security Act of 2002 merged portions of the U.S. Customs Service and the INS to create Customs and Border Protection (CBP), as part of the Department of Homeland Security (DHS). Section 1512(d) of the Homeland Security Act of 2002 transferred the responsibilities of the Advisory Committee to CBP. Under CBP, the executive Directors of Budget, Office of Finance; and Travel Security and Facilitation, Office of Field Operations, chair the Advisory Committee.

The Advisory Committee held its first meeting under the direction of CBP in October 2003. A subsequent meeting was held in April 2004. It is noted that before the creation of DHS, there was an advisory committee called the Consolidated Omnibus Budget Reconciliation Act (COBRA) Fees Advisory Committee, which met to discuss user fee issues related to customs inspectional services. All advisory responsibilities previously handled by the COBRA Fees Advisory Committee have been vested within this Advisory Committee.

In June 2005, the Advisory Committee's charter was renewed and amended in consultation with the DHS Committee Management Officer. The charter reflects the broader responsibilities of CBP, providing that the Advisory Committee will give advice and recommendations on policy and program issues relating to CBP inspectional services at airports and seaports, whether the inspectional services relate to agriculture, customs, or immigration functions.

Purpose of Committee

The purpose of this Advisory Committee is the performance of advisory responsibilities pursuant to section 286(k) of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. 1356(k) and the Federal Advisory Committee Act, 5 U.S.C. app. 1 *et seq.* This Advisory Committee will advise on issues related to the performance of Airport and Seaport agriculture, customs, and immigration inspection services. This advice should include, but need not be limited to, the time period in which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. These responsibilities are related to the assessment of an immigration user fee pursuant to 8 U.S.C. 1356(d), the assessment of a customs inspection user fee pursuant to 19 U.S.C. 58c(a)(5), and the assessment of an agriculture inspection user fee pursuant to 21 U.S.C 136a. The Advisory Committee focuses its attention on those areas of most concern and benefit to the travel industry, the traveling public, and the Federal Government.

Public Attendance

A limited number of members of the public may register to attend the public session on a first-come, first-served basis per the procedures that follow. Security requires that any member of the public who wishes to attend the public session provide his or her name and date of birth no later than 5 p.m. e.s.t., November 25, 2005, to Mr. Roberto Williams via e-mail at *Roberto.M.Williams@dhs.gov* or via phone at (202) 344–1101. Persons with disabilities who require special assistance should indicate so in their admittance request and are encouraged to indicate their desires to attend and anticipated special needs as early as possible. Photo identification will be required for entry into the public

session, and everyone in attendance must be present and seated by 12:30 p.m.

Dated: November 10, 2005.

Elaine P. Killoran,

Acting Assistant Commissioner, Office of Finance, Customs and Border Protection.

[FR Doc. 05–22678 Filed 11–15–05; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Oil Pollution Act (''OPA'')

Notice is hereby given that on November 4, 2005, a proposed Settlement Agreement in *In re Equinox Oil Co., Inc., et al.,* Civil Action Nos. 99–12688 and 99–13071 was lodged with the United States Bankruptcy Court for the Eastern District of Louisiana.

The United States and the State of Louisiana (''State'') each filed a Proof of Claim in this jointly administered bankruptcy action, seeking natural resource damages, and the United States also sought removal costs paid by the Coast Guard to clean up oil that was discharged into the waters of Lake Grande Ecaille in Plaquemines Parish, Louisiana during a well blowout. The State and federal claims were authorized by the Oil Pollution Act (''OPA''). The well was owned by Alma Energy Corporation and operated by Equinox Oil Company, Inc. These companies filed for bankruptcy and subsequently were purchased by Elysium Energy, L.L.C. (''Elysium''), which assumed liability for these claims.

Under the Settlement Agreement, Elysium agreed to pay $1.2 million to resolve the United States' and the State's natural resource damage claims, including costs to implement restoration projects on property near the location of the oil spill, past assessment costs, and estimated future restoration costs. The Coast Guard's removal costs were paid earlier.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re Equinox Oil Co., Inc., et al.,* D.J. Ref. No. 90–11–3–07003.

The Settlement Agreement may be examined during the public comment period on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/open.html.* A copy of the Settlement Agreement may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy of the Settlement Agreement from the Consent Decree Library, please enclose a check in the amount of $6.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Thomas A. Mariani, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 05–22739 Filed 11–15–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States of America* v. *Lone Moose Meadows,* LLC, No. CV 05–76–BU–SEH, (D. Mt.) was lodged with the United States District Court for the District of Montana on November 3, 2005.

This proposed Consent Decree concerns a complaint filed by the United States against Lone Moose Meadows, LLC pursuant to section 309(b) and (d) of the Clean Water Act (''CWA''), 33 U.S.C. 1319(b) and (d), to obtain injunctive relief from and impose civil penalties against the Defendant for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the Defendants to restore impacted areas, perform mitigation and to pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Leif Johnson, Assistant United States Attorney, PO Box 1478, Billings, Montana 59103 and refer to *United States of America* v. *Lone Moose Meadows,* LLC, et al. and DJ #90–5–1–1–17261.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of Montana, Butte Division, 303 Federal Building, 400 North Main St., Butte, Montana 59701. In addition, the proposed Consent Decree may be viewed at *http://www.usdoj.gov/enrd/open.html.*

Dated: November 8, 2005.

Scott Schachter,

Assistant Chief, Environmental Defense Section, Environment & Natural Resources Division.

[FR Doc. 05–22737 Filed 11–15–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

In accordance with Departmental Policy, 28 U.S.C. 50.7, notice is hereby given that on November 2, 2005, a proposed Consent Decree in *United States, et al.* v. *City of Nashua, New Hampshire*, Civil Action No. 1:05–cv–00376–PB, was lodged with the United States District Court for the District of New Hampshire.

In this action the United States, on behalf of the United States Environmental Protection Agency (''EPA''), filed a Complaint against the City of Nashua alleging violations of the Clean Water Act concerning the City's current and former combined sewer outfall (''CSO'') facilities. Under the terms of the Consent Decree, the City undertakes the implementation of a CSO abatement plan with a completion date of August, 2012. The mitigation measures are extensive, requiring completion of the separation of combined sanitary and storm water systems over a large section of the City; the design and construction of wet-weather by-pass systems; the design and construction of new outfalls with screening and detention ponds in multiple locations; the design and construction of disinfection facilities; and substantial system-wide infrastructure improvements.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States, et al.* v. *City of Nashua, New Hampshire*, DOJ No. 90–5–1–1–08193.

The Consent Decree may be examined at the Office of the United States Attorney, District of New Hampshire, 53 Pleasant Street, Concord, New Hampshire, and at the United States Environmental Protection Agency,

Region 1 (New England Region), One Congress Street, Boston, Massachusetts 02114. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html*. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $8.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ronald Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Div.

[FR Doc. 05–22740 Filed 11–15–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Amended Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on November 4, 2005, a proposed Amended Consent Decree in *United States* v. *Tecumseh Products Company*, Civil Action No. 03–C–401 (E.D. Wisc.) was lodged with the United States District Court for the Eastern District of Wisconsin.

In this action, the United States seeks the implementation of response actions at, and the reimbursement, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, *et seq.*, (''CERCLA''), of costs incurred by the United States in responding to a release or threat of release of hazardous substances in, the Upper River section of the Sheboygan River and Harbor Superfund Site in Sheboygan County, Wisconsin (the ''Site''). The United States alleges that Tecumseh Products Company (''Tecumseh'') arranged for disposal of hazardous substances in the Upper River portion of the Site and therefore is liable for the reimbursement of response costs and the performance of response actions under CERCLA.

On May 12, 2004, the United States District Court for the Eastern District of Wiscon approved and entered a Consent Decree that requires Tecumseh to: (1) Implement those components of the remedy set forth in a May 12, 2004 U.S. EPA Record of Decision that address the Upper River section of the Site: (2) pay at least $2.1 million towards the United States' past site past response costs, which total approximately $3.42 million; and (3) pay all future Upper River response costs incurred by the United States.

Under the proposed Amended Consent Decree, a third party, designated a ''Work Party,''would become party to the Amended Consent Decree and would be jointly and severally liable for completing the cleanup of the Upper River Section of the Site. Tecumseh, however, will continue to be liable for completion of the remedy. The Work Party has signed the Amended Consent Decree, and under the Decree's terms, the Work Party has voluntarily subjected itself to the jurisdiction of this Court and agreed to be bound by the terms of the Amended Consent Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Amendzed Consent Decree. Comments should be addressed to the Assistant Attorney Genera, Environmental and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Tecumseh Products Company*, DOJ Ref. #90–11–2–06440.

The proposed Amended Consent Decree may be examined at the office of the United States Attorney for the Eastern District of Wisconsin, 530 Federal Building, 517 East Wisconsin Avenue, Milwaukee 53202, and at U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604. During the public comment period, the proposed Amended Consent Decree may also be examined on the following department of Justice Web site, *http://www.usdoj.gov/enrd/open.html*. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Librar, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing a request to Tonia Fleetwood, fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $24.50 (25 cents per page reproduction costs) (Amended Consent Decree only) or $75.25 (Amended Consent Decree and all appendices), payable to the U.S. Treasury.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 05–22738 Filed 11–15–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 012–2005]

Privacy Act of 1974; Removal of a System of Records Notice

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Department of Justice (DOJ) is removing the published notice of a Privacy Act system of records: The Deputy Attorney General's (DAG) ''Honor Program Applicant System, JUSTICE/DAG–004,'' last published on October 21, 1985 at 50 FR 42605.

This system notice is unnecessary because the records are adequately covered by a Government-wide system of records notice published by the Office of Personnel Management (OPM): ''OPM/GOVT–5, Recruiting, Examining, and Placement Records,'' last published in the **Federal Register** on April 27, 2000 (65 FR 24731, 24741). We note that the National Archives and Records Administration's General Records Schedule (GRS) is revised periodically, and that GRS 1, covering these records, has been updated since OPM published its notice. The Department of Justice maintains these records in accordance with the current disposition schedule for GRS 1. The GRS may be viewed at *http://www.archives.gov/records_management/ardor/index.html*.

Therefore, the notice of ''Honor Program Applicant System, JUSTICE/DAG–004'' is removed from the Department's Privacy Act system of records, effective on the date of publication of this notice in the **Federal Register**.

Dated: November 7, 2005.

Paul R. Corts,

Assistant Attorney General for Administration.

[FR Doc. 05–22638 Filed 11–15–05; 8:45 am]

BILLING CODE 4410–PB–P

DEPARTMENT OF JUSTICE

[AAG/A Order No. 014–2005]

Privacy Act of 1974; System of Records

AGENCY: Department of Justice, Tax Division.

ACTION: Proposed modification.

SUMMARY: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the Department of Justice (DOJ), Tax Division, proposes to modify the following systems of records, ''Tax Division Central Classification Cards, Index Docket Cards, and Associated Records—Criminal Tax Cases, Justice/TAX–001,'' previously published in full on February 20, 1998, (63 FR 8659) and amended on March 29, 2001 (66 FR 17200); ''Tax Division Central Classification Cards, Index Docket Cards, and Associated Records—Civil Tax Cases, Justice/TAX–002,'' previously published in full on February 20, 1998, (63 FR 8659) and amended on March 29, 2001 (66 FR 17200) ; ''Files of Applications for Attorney with the Tax Division, Justice/TAX–003,'' previously published on September 30, 1977, (42 FR 53390); and to eliminate the system of records, ''Tax Division Special Projects File, Justice/TAX–005,'' previously published on September 30, 1977 (42 FR 53391).

Specifically, the proposed Justice/TAX–001 modifications are intended to change the system name; to disclose additional details as to what data is kept in paper-based files and in electronic-based files; to provide additional details as to how access to confidential taxpayer-related information and tax enforcement-related information is managed; to expand the categories of routine uses; to clarify the policies and practices through which the Justice/TAX–001 records are stored and retrieved; and to reflect the adoption of an electronic timekeeping function for Tax Division staff.

The proposed Justice/TAX–002 modifications are intended to change the system name; to disclose additional details as to what data is kept in paper-based files and in electronic-based files; to provide additional details as to how access to confidential taxpayer-related information and tax enforcement-related information is managed; to expand the categories of routine uses; and to reflect the adoption of an electronic timekeeping function for Tax Division staff.

The proposed Justice/TAX–003 modifications are intended to change the system name, to include non-attorney applications; to disclose additional details as to what type of applicant information is maintained; and to show how access to applicant information is managed. Exemptions from the Privacy Act are claimed for this system of records and a separate Proposed Rule is included for publication in the **Federal Register**.

The proposed deletion of Justice/TAX–005 is intended to eliminate a redundancy: many elements of Justice/TAX–005 system descriptions and the basis for its descriptions—criminal tax enforcement—are shared by Justice/TAX–001. Accordingly, the Tax Division believes it is appropriate to add the ''Special Projects'' to the Justice/TAX–001 system name, to incorporate the relevant elements of Justice/TAX–005 into Justice/TAX–001, and to delete Justice/TAX–005 on the effective date of the revised system notice for Justice/TAX–001.

Title 5 U.S.C. 552a(e)(4) and (11) provides that the public must be given thirty days in which to comment on proposed new routine use disclosures and other changes as noted above. The Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires forty days to conclude its review of proposed changes to the current Tax Division Systems of Records embodied in Justice/TAX–001, Justice/TAX–002, and Justice/TAX–003.

DATES: You may submit any comments by December 27, 2005. If no comments are received, the proposal will be implemented without further notice in the **Federal Register**. The public, OMB, and the Congress are invited to send written comments to Mary Cahill, Management Analyst, Justice Management Division, Management and Planning Staff, Room 1400, National Place Building, 1331 Pennsylvania Ave., NW., Washington DC 20530.

FOR FURTHER INFORMATION CONTACT: Mary Cahill, (202) 307–1823.

SUPPLEMENTARY INFORMATION: None.

In accordance with 5 U.S.C. 552a, the DOJ has provided a report to the OMB and the Congress on the modifications to the notices for Justice/TAX–001, 002, and 003 systems of records, the deletion of Justice/TAX–005, and the Proposed Rule.

Dated: November 7, 2005.

Paul R. Corts,

Assistant Attorney General for Administration.

Department of Justice, Tax Division

JUSTICE/TAX–001

SYSTEM NAME:

Criminal Tax Case Files, Special Project Files, Docket Cards, and Associated Records.

SECURITY CLASSIFICATION:

Not classified.

SYSTEM LOCATION:

U.S. Department of Justice, Tax Division, 950 Pennsylvania Avenue, NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons referred to in potential or actual criminal tax cases or investigations and related matters of concern to the Tax Division under the Internal Revenue laws and related statutes.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an index, by individual name, of all criminal tax cases and related matters assigned, referred, or of interest to the Tax Division. The records in this system include case files, court records, tax returns, tax return information and documents which contain tax return information, inter-agency correspondence, intra-agency memoranda, indictments, information, search warrants, search warrant affidavits, wiretap authorizations, immunity requests, grand jury information, criminal enforcement and civil investigatory information and reports, docket cards, and associated records. For pre-1977 cases or related matters, summary information—names of principals or related parties, case file or management numbers, case type, case weight, attorney assigned, court numbers, defense counsel and associated information—is maintained on docket cards. For cases 1977 onwards, information is maintained in an automated case management system. This automated system also permits Tax Division personnel to record information about the case on a comment field. A timekeeping function for attorneys, paralegals, and other Division employees involved in litigation is also part of the automated case management system. Records are maintained for the purpose of prosecuting (including investigations leading to prosecutions) or otherwise resolving criminal cases or matters under the jurisdiction of the Tax Division.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 5 U.S.C. 301, 44 U.S.C. 3101, and 28 CFR 0.70 and 0.71.

PURPOSES:

Information is maintained in docket cards and in electronic format on each Tax Division (Division) criminal case and related matter to identify and assign mail to the proper office within the Division and the attorneys therein

assigned to the case; to relate incoming material to an existing case; to establish a file and case management numbers; and to provide a central index of cases within the Division and to facilitate the flow of legal work in the Division. The Division's automated case management system enhances these uses and enables data management specialists, managers, and Division personnel to locate information about the status of pending or terminated criminal matters and litigation; to identify assigned staff; to track the status of litigation; to prepare reports including budget requests; and to track the number of hours Division legal personnel worked on various matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Tax returns and return information may be disclosed only as provided in 26 U.S.C. 6103. Grand jury information may be disclosed only as provided by Rule 6(e) of the Federal Rules of Criminal Procedure.

Other records relating to a case or matter maintained in this system of records may be disseminated as a routine use, as follows:

(1) Where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate federal, state, local, foreign, or tribal, law enforcement authority or other appropriate agency charged with the responsibility of investigating or prosecuting such a violation or enforcing or implementing such law.

(2) In an appropriate proceeding before a court, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(3) To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion of such matters as settlement, plea bargaining, or in informal discovery proceedings.

(4) To appropriate officials and employees of a federal agency or entity which requires information relevant to a decision concerning the hiring, appointment, or retention of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract, or the issuance of a grant or benefit.

(5) To federal, state, local, tribal, foreign, or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

(6) To the National Archives and Records Administration (NARA) for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(7) To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that the release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(8) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

(9) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

(10) The Department of Justice may disclose relevant and necessary information to a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(11) Information relating to health care fraud may be disclosed to private health plans, or associations of private health plans, and health insurers, or associations of health insurers, for the following purposes: to promote the coordination of efforts to prevent, detect, investigate, and prosecute health care fraud; to assist efforts by victims of health care fraud to obtain restitution; to enable private health plans to participate in local, regional, and national health care fraud task force activities; and to assist tribunals having jurisdiction over claims against private health plans.

(12) In the course of investigating the potential or actual violation of any law whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant.

(13) To the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made.

(14) In any health care-related civil or criminal case, investigation, or matter, information indicating patient harm, neglect, or abuse, or poor or inadequate quality of care, at a health care facility or by a health care provider, may be disclosed as a routine use to any federal, state, local, tribal, foreign, joint, international or private entity that is responsible for regulating, licensing, registering, or accrediting any health care provider or health care facility, or enforcing any health care-related laws or regulations. Further, information indicating an ongoing problem by a health care provider or at a health care facility may be disclosed to the appropriate health plan. Additionally, unless otherwise prohibited by applicable law, information indicating patient harm, neglect, abuse or poor or inadequate quality of care may be disclosed to the affected patient or the patient's representative or guardian at the discretion of and in the manner determined by the agency in possession of the information.

(15) To representatives of the Internal Revenue Service who are conducting tax records safeguard reviews pursuant to 26 U.S.C. 6103(p)(4).

(16) To the United States Department of State, to the extent necessary to assist in apprehending and/or returning a fugitive to a jurisdiction which seeks the fugitive's return.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Only as stated in the above routine uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Unless otherwise noted herein, all information is recorded on paper material and on docket cards. Paper materials are stored within file jackets and metal file cabinets; docket cards,

within boxes or card drawers. Summary information, as described above, is maintained in electronic format and stored on data processing-type storage medium or on magnetic tape.

RETRIEVABILITY:

Information is retrieved primarily by name of person, case or file numbers, attorney number, or court district.

SAFEGUARDS:

Information is safeguarded in accordance with 26 U.S.C. 6103(p) and the Tax Division is subject to periodic inspections by the Internal Revenue Service to ensure that adequate safeguards which satisfy the requirements of that Section are in place. Records are also safeguarded in accordance with Department of Justice rules and procedures. Buildings in which the records are located are under security guard, and access to premises is by official identification. The various sections in the Division have locked entry doors which may only be entered with an encrypted card key. Records are stored in spaces and filing cabinets which are locked outside normal business hours. Training is provided for new Division personnel regarding the need for confidentiality of records, particularly tax returns and return information. A password is required to access the automated case management system and passwords are changed every 90 days.

RETENTION AND DISPOSAL:

Tax records not retained are returned to the Internal Revenue Service. Records in closed files are sent to the Federal Records Center where they are destroyed after fifteen (15) years unless they are determined to have historical significance under the NARA criteria. Records having historical significance are retained permanently. Summary information in electronic format is retained permanently. Closed records designated permanent are retired at the Records Center, where they will remain until the statutory access restrictions of 26 U.S.C. 6103 are resolved.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Tax Division; U.S. Department of Justice; 950 Pennsylvania Avenue, NW., Washington, DC 20530.

NOTIFICATION PROCEDURE:

An inquiry concerning this system should be directed to the System Manager listed above.

RECORD ACCESS PROCEDURES:

Major portions of this system are exempt from disclosure and contest by 5 U.S.C. 552a(j)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to the applicability of an exemption as to a specific record must be made at the time a request for access is received. A request for access to a record contained in this system must be made in writing, with the envelope and the letter clearly marked ''Privacy Access Request.'' Include in the request the System name, the name of the individual involved, the individual's birth date and place, or any other identifying number which may be of assistance in locating the record, the name of the case or matter involved, if known, the name of the judicial district involved, if known, and any other information which may be of assistance in locating the record. You will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above. You must sign the request; and, to verify it, the signature must be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury and dated as a substitute for notarization. You may submit any other identifying data you wish to furnish to assist in making a proper search of the system.

CONTESTING RECORD PROCEDURES:

A major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a(j)(2). Title 28 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Internal Revenue Service, Department offices and employees, and other federal, state, local, and foreign law enforcement and non-law enforcement agencies, private persons, witnesses, and informants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Attorney General has exempted this system from subsection (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register** and are codified at 28 CFR 16.93(a) and (b).

JUSTICE/TAX–002

SYSTEM NAME:

Tax Division Civil Tax Case Files, Docket Cards, and Associated Records.

SECURITY CLASSIFICATION:

Not classified.

SYSTEM LOCATION:

U.S. Department of Justice; Tax Division; 950 Pennsylvania Avenue, NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons referred to in potential or actual civil tax cases and related matters under the jurisdiction or of concern to the Tax Division under Internal Revenue laws and related statutes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system pertain to a broad variety of litigation under the jurisdiction of the Tax Division. They include case files which were created or received by the Tax Division in connection with a particular case. These case files contain all pleadings, motions, briefs, transcripts and exhibits, all other papers filed with a court or issued by the Court, correspondence relating to the case, tax returns, tax return information, and documents which contain tax return information, inter-agency memoranda, intra-agency memoranda, assignment sheets, investigative reports and associated records. For pre-1977 cases, summary information is maintained on docket cards on which is recorded the names of principals or related parties, case file or management numbers, case type, case weight, attorney assigned, court numbers, opposing counsel and associated information. For cases beginning in 1977, information is maintained in an automated case management system. This automated system also permits Tax Division personnel to record information about the case on a comment field. Also part of the automated case management system is a timekeeping function for attorneys, paralegals, and other Tax Division employees involved in litigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 5 U.S.C. 301, 44 U.S.C. 3101, and 28 CFR 0.70 and 0.71.

PURPOSES:

Information is maintained in docket cards and in electronic format on each Tax Division (Division) civil case: (a) To identify and assign mail to the proper office within the Division and the

attorneys therein assigned to the case; (b) to relate incoming material to an existing case; (c) to establish a file and case management numbers; and (d) to provide a central index of cases within the Division and to facilitate the flow of legal work in the Division. The Division's automated case management system enhances these uses and enables data management specialists, managers, and Division personnel: (a) To locate information about the status of pending or terminated civil matters and litigation; (b) to identify assigned staff; (c) to track the status of litigation; (d) to prepare reports including budget requests; and (e) to track the number of hours Division legal personnel worked on various matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Tax returns and return information may be disclosed only as provided in 26 U.S.C. 6103.

Other records related to a case or matter maintained in this system of records may be disseminated as follows:

(1) Where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate federal, state, local, foreign, or tribal law enforcement authority or other appropriate agency charged with the responsibility of investigating or prosecuting such a violation or enforcing or implementing such law.

(2) In an appropriate proceeding before a court, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(3) To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion of such matters as settlement or in informal discovery proceedings.

(4) To appropriate officials and employees of a federal agency or entity which requires information relevant to a decision concerning the hiring, appointment, or retention of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract, or the issuance of a grant or benefit.

(5) To federal, state, local, tribal, foreign, or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

(6) To the National Archives and Records Administration (NARA) for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(7) To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(8) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

(9) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

(10) The Department of Justice may disclose relevant and necessary information to a former employee of the Department for purposes of: Responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(11) Information relating to health care fraud may be disclosed to private health plans, or associations of private health plans, and health insurers, or associations of health insurers, for the following purposes: To promote the coordination of efforts to prevent, detect, investigate, and prosecute health care fraud; to assist efforts by victims of health care fraud to obtain restitution; to enable private health plans to participate in local, regional, and national health care fraud task force activities; and to assist tribunals having jurisdiction over claims against private health plans.

(12) In the course of investigating the potential or actual violation of any law whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local or foreign agency, or to an individual or organization if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant.

(13) A record relating to a case or matter that has been referred to the Tax Division may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made.

(14) In any health care-related civil or criminal case, investigation, or matter, information indicating patient harm, neglect, or abuse, or poor or inadequate quality of care, at a health care facility or by a health care provider, may be disclosed as a routine use to any federal, state, local, tribal, foreign, international or private entity that is responsible for regulating, licensing, registering, or accrediting any health care provider or health care facility, or enforcing any health care-related laws or regulations. Further, information indicating an ongoing problem by a health care provider or at a health care facility may be disclosed to the appropriate health plan. Additionally, unless otherwise prohibited by applicable law, information indicating patient harm, neglect, abuse or poor or inadequate quality of care may be disclosed to the affected patient or the patient's representative or guardian at the discretion of and in the manner determined by the agency in possession of the information.

(15) To representatives of the Internal Revenue Service (IRS) who are conducting tax records safeguard reviews pursuant to 26 U.S.C. 6103(p)(4).

(16) To the United States Department of State, to the extent necessary to assist in apprehending and/or returning a fugitive to a jurisdiction which seeks the fugitive's return.

(17) In the case of records relating to an individual who owes an overdue debt to the United States to: (a) A federal agency which employs the individual to enable the employing agency to offset the individual's salary; (b) A federal, state, local or foreign agency, an organization, including a consumer reporting agency, or individual to elicit information to assist the Division in the collection of the overdue debt; (c) a collection agency or private counsel to enable them to collect

the overdue debt; and/or (d) the IRS to enable that agency to offset the individual's tax refund.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Only as stated in above routine uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Unless otherwise noted herein, all information is recorded on paper material. Paper materials are stored within file jackets and metal file cabinets; docket cards, within boxes or card drawers. Summary information, as described above, is maintained in electronic format and stored on data processing-type storage medium or on magnetic tape and docket cards.

RETRIEVABILITY:

Information is retrieved primarily by name of person, case or file numbers, attorney number, or court district.

SAFEGUARDS:

Information is safeguarded in accordance with 26 U.S.C. 6103(p) and the Tax Division is subject to periodic inspections by the IRS to ensure that adequate safeguards which satisfy the requirements of that Section are in place. Records are also safeguarded in accordance with DOJ rules and procedures. Buildings in which the records are located are under security guard, and access to premises is by official identification. The various sections in the Division have locked entry doors which may only be entered with an encrypted card key. Records are stored in spaces and filing cabinets which are locked outside normal business hours. Training is provided for new Division personnel regarding the need for confidentiality of records, particularly tax returns and return information. A password is required to access the automated case management system and passwords are changed every 90 days.

RETENTION AND DISPOSAL:

Tax records not retained are sent to the Internal Revenue Service. Records in closed files are sent to the Federal Records Center where they are destroyed after fifteen (15) years unless they are determined to have historical significance under the NARA criteria. Records of historical significance are retained permanently. Summary information in electronic format is retained permanently. Closed records designated permanent are retired at the Records Center, where they will remain until the statutory access restrictions of 26 U.S.C. 6103 are resolved.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General, Tax Division, U.S. Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530.

NOTIFICATION PROCEDURE:

An inquiry concerning this system should be directed to the System Manager listed above.

RECORD ACCESS PROCEDURES:

To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to the applicability of an exemption to a specific record must be made at the time a request for access is received. A request for access to a record contained in this system must be made in writing, with the envelope and the letter clearly marked ''Privacy Access Request''. Include in the request the System name, the name of the individual involved, the individual's birth date and place, or any other identifying number which may be of assistance in locating the record, the name of the case or matter involved, if known, the name of the judicial district involved, if known, and any other information which may be of assistance in locating the record. You will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above. You must sign the request; and, to verify it, the signature must be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury and dated as a substitute for notarization. You may submit any other identifying data you wish to furnish to assist in making a proper search of the system.

CONTESTING RECORD PROCEDURES:

A major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a(k)(2). Title 28 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Internal Revenue Service, Department offices and employees, and other federal, state, local, and foreign law enforcement and non-law enforcement agencies, private persons, witnesses, and informants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Attorney General has exempted this system from subsections (c)(3), (d)(1), (d)(2), (d)(3), and (d)(4), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c), and (e) and have been published in the **Federal Register** and codified at 28 CFR 16.93(c) and (d).

JUSTICE/TAX—003

SECURITY CLASSIFICATION:

Not classified.

SYSTEM NAME:

Files of Applications for Attorney and Non-Attorney Positions with the Tax Division.

SYSTEM LOCATION:

U.S. Department of Justice; Tax Division; 950 Pennsylvania Avenue, NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants who have applied for a position as an attorney or for non-attorney positions with the Tax Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in this system include resumes, employment applications, referral correspondence, grade transcripts, letters of recommendation, interview notes, internal notes, memoranda and evaluations, and related personnel forms and correspondence. Some information is maintained in electronic format. Summary information (names of applicants, social security numbers, dates documents received, type of documents received, where interviewed, personal data, dispositions, and type of response sent) is maintained in an electronic database.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 5 U.S.C. 301, 44 U.S.C. 3101, and 28 CFR 0.70 and 0.71.

PURPOSE:

This system is used by employees and officials of the Division and the Justice Department in making employment decisions including making information known to references supplied by applicant and other persons contacted to verify information supplied or to obtain additional information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records related to a case or matter maintained in this system of records may be disseminated as follows:

(1) To appropriate officials and employees of a federal agency or entity which requires information relevant to a decision concerning the hiring, appointment, or retention of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract, or the issuance of a grant or benefit.

(2) To the National Archives and Records Administration (NARA) for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(3) To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(4) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

(5) Where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate federal, state, local, foreign, or tribal, law enforcement authority or other appropriate agency charged with the responsibility of investigating or prosecuting such a violation or enforcing or implementing such law.

(6) To federal, state, local, tribal, foreign, or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

(7) In an appropriate proceeding before a court, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(8) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

(9) The Department of Justice may disclose relevant and necessary information to a former employee of the Department for purposes of: Responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(10) Information may be disclosed to the Office of Personnel Management which conducts audits of these records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Unless otherwise noted herein, all information is recorded on paper material. Paper materials are stored within file jackets and metal file cabinets. Summary information, as described above, is maintained in electronic format and stored on data processing-type storage medium or on magnetic tape.

RETRIEVABILITY:

Information is retrieved by using the name of the applicant.

SAFEGUARDS:

Records are safeguarded in accordance with Department of Justice rules and procedures. Buildings in which the records are located are under security guard, and access to premises is by official identification. The Personnel Office in the Division is in a space which has locked key entry doors which may only be entered with an encrypted card key. A password is required to access an electronic database and passwords are changed every 90 days.

RETENTION AND DISPOSAL:

Information in the applicant files is retained until after a decision is made as to the employment of the applicant, usually for one year and, for some files, up to two years after the decision. Summary information in electronic format is retained permanently. Closed records designated permanent are retired at the Records Center, where they will remain until the statutory access restrictions of 26 U.S.C. 6103 are resolved.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Tax Division; U.S. Department of Justice; 950 Pennsylvania Avenue, NW., Washington, DC 20530.

NOTIFICATION PROCEDURE:

An inquiry concerning this system should be directed to the System Manager listed above.

RECORD ACCESS PROCEDURES:

A request for access to a record contained in this system must be made in writing, with the envelope and the letter clearly marked ''Privacy Access Request''. Include in the request the name of the individual involved, the individual's birth date and place, or any other identifying number which may be of assistance in locating the record, as well as the position applied for. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above. Some information may be exempt from access provisions as described in the section entitled ''Exemptions Claimed for the System.'' A determination whether a record may be accessed will be made at the time a request is received.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely which information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Some information may be exempt from contesting records, records procedures, or both, as described in the section entitled ''Exemptions Claimed for the System.'' A determination whether a record, a record procedure(s), or both, may be contested will be made at the time a request is received.

RECORD SOURCE CATEGORIES:

Generally, sources of information contained in the system are the individual applicants, persons referring or recommending the applicant, and employees and officials of the Division and the Department.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Attorney General proposes to exempt this system from subsections (c)(3), (d)(1), and (e)(1) pursuant to 5 U.S.C. 552a (k)(2) and (k)(5). In accordance with the requirements of 5 U.S.C. 553(b), (c), and (e), the Proposed

Rule claiming these exemptions is published in today's **Federal Register**.

[FR Doc. 05–22639 Filed 11–15–05; 8:45 am]
BILLING CODE 4410–16–P

DEPARTMENT OF JUSTICE

[AAG/A Order No. 016–2005]

Privacy Act of 1974; System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Federal Bureau of Prisons (Bureau or BOP), Department of Justice, proposes to create a new systems of records entitled ''Inmate Electronic Message Record System, JUSTICE/BOP–013.'' The system notice will become effective sixty (60) days from the date of publication in the **Federal Register**.

The Bureau is creating this new program as a pilot project at selected sites. Once the pilot is completed and evaluated, the Bureau may expand the program to all individuals placed under the custody of the Bureau pursuant to 18 U.S.C. 3621 and 5003 (state inmates).

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be provided a 30-day period in which to comment. The Office of Management and Budget (OMB), which has oversight responsibilities under the Privacy Act, requires that it be given a 40-day period in which to review the system. Therefore, please submit any comments by December 27, 2005. The public, OMB, and the Congress are invited to send written comments to Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (1400 National Place Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the proposed new system of records.

Dated: November 7, 2005.

Paul R. Corts,

Assistant Attorney General for Administration.

JUSTICE/BOP–013

SYSTEM NAME:

Inmate Electronic Message Record System.

SECURITY CLASSIFICATION:

Not classified.

SYSTEM LOCATION:

For the pilot program, records will be retained only at selected sites. Once the pilot is completed and evaluated, records may be retained at any of the Federal Bureau of Prisons (Bureau) facilities nationwide, or at any location operated by a contractor authorized to provide computer and/or electronic message service to Bureau inmates. A list of Bureau facilities may be found at 28 CFR part 503 and on the Internet at *http://www.bop.gov*.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former inmates, including pre-trial detainees, under the custody of the Attorney General and/or the Director of the Bureau of Prisons; recipients of electronic messages from current and former inmates; individuals on the approved electronic message correspondent lists of current or former inmates; individuals who request, in writing through either traditional mail or through electronic message, that the Bureau delete their name and electronic address from inmate electronic message correspondent lists.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include: (1) Personal identification data; (2) time usage data; (3) electronic message data, including date and time of each electronic message; the name and register number of the inmate who sent the electronic message; and the electronic address of the message recipient and his/her relationship to the inmate; digital and compact disc recordings of electronic messages; and (4) investigatory data developed internally as well as any related data collected from federal, state, local, tribal and foreign law enforcement agencies, and from federal and state probation and judicial officers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 3621, 4042, and 5003.

PURPOSE(S):

This system of records is maintained to manage records relating to inmate electronic messages and to ensure that inmates exercise their electronic message privileges in a manner consistent with correctional goals. The Bureau of Prisons encourages inmates to maintain contact with members of the community, including contact through the exchange of electronic messages directed to socially useful goals. The related uses for which the Bureau will maintain the system include (1) recording of time used by inmates writing, receiving, and reviewing electronic messages; (2) maintaining inmate electronic message correspondent lists; (3) monitoring of inmate electronic message activity; and (4) conducting investigations, e.g., investigation of inmate activity related to electronic message usage, and/or illegal activities or suspected illegal activities being conducted, coordinated, or directed from within a federal correctional institution.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant data from this system will be disclosed as follows:

(a) To any criminal, civil, or regulatory law enforcement authority (whether federal, state, local, territorial, tribal or foreign) where the information is relevant to the recipient entity's law enforcement responsibilities, including possible criminal violations discovered as part of electronic message monitoring done for the safety, security and good order of penal institutions.

(b) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records;

(c) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the record subject;

(d) To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy;

(e) To the National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906;

(f) To affected non-inmate record subjects to the extent necessary to provide such persons with information concerning placement and/or removal from an inmate's electronic message correspondent list;

(g) To an individual, organization, or governmental entity in order to notify them of a serious terrorist threat for the purpose of guarding against or responding to such a threat;

(h) In an appropriate proceeding before a court, or administrative or adjudicative body when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before a court, or administrative or adjudicative body, when the adjudicator determines the records to be relevant to the proceeding;

(i) The Department of Justice may disclose relevant and necessary

information to a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility; and

(j) To federal, state, local, tribal, foreign or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not Applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored in electronic media via a configuration of personal computer and client/server, and may be accessed by those with a need-to-know at all Bureau and contractor facilities. Some information may be stored in other computerized media, e.g., hard disk, floppy diskettes, magnetic tape, digital recordings, Compact Discs (CDs), and/or optical disks. Documentary records are maintained in manual file folders and/or on index card files.

RETRIEVABILITY:

Records may be retrieved by identifying data including name and/or register number of inmate; and/or by name and/or electronic address of message recipient or individual on approved inmate electronic message correspondent list.

SAFEGUARDS:

Information is safeguarded in accordance with Bureau rules and policy governing automated information systems security and access. These safeguards include the maintenance of records and technical equipment in restricted areas, and the required use of proper passwords and user identification codes to access the system. Only those Bureau personnel and authorized contractors who require access to perform their official duties may access the system equipment and the information in the system. Bureau inmates will only be able to access their own sent and received electronic messages.

RETENTION AND DISPOSAL:

Electronic messages are maintained ordinarily for six months from the date created, at which time they are overwritten with new data. Other records in this system may be incorporated into another system of records, e.g., JUSTICE/BOP–005, Inmate Central Records System. System-generated reports are retained for as long as they are needed. Computerized records are destroyed by degaussing; documentary records are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Administration Division, Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

NOTIFICATION PROCEDURE:

Inquiries should be directed to the System Manager listed above.

RECORD ACCESS PROCEDURES:

All requests for records may be made by writing to the Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. The envelope should be clearly marked ''Freedom of Information/Privacy Act Request.'' The request should include a general description of the records sought, including the approximate dates covered by the record, the requester's full name, current address, and date, and place of birth. Also, if the requester is an inmate who requests documents to be sent to a third party, the inmate must provide with the request an example of his or her signature, which must be verified and dated within three (3) months of the date of request. This system of records is exempted from access pursuant to 5 U.S.C. 552a(j)(2) and/or (k)(2). A determination as to the applicability of the exemption to a particular record(s) shall be made at the time a request for access is received.

CONTESTING RECORD PROCEDURES:

Same as above. Requesters may contest record procedures by writing to the Office of Information and Privacy, U.S. Department of Justice, Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20530.

RECORD SOURCE CATEGORIES:

Records are generated by: individuals covered by the system; Bureau staff; federal, state, local, tribal, international and foreign law enforcement agencies; and federal/state probation and judicial offices.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d)(1)–(4), (e)(2), (e)(3), (e)(5), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and/or (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register**.

[FR Doc. 05–22641 Filed 11–15–05; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Termination of Final Decree

Notice is hereby given that Ludowici Roof Tile, Inc. (''Ludowici''), successor in interest to Ludowici-Celadon Company (''Ludowici-Celadon''), a defendant in *Unitd States* v. *Ludowici-Celadon Co., et al.,* In Equity No. 9022 (N.D. III. Mar. 12, 1929), has filed a motion to terminate the final Decree entered in that matter on March 18, 1929 (the ''Decree''). The Antitrust Division of the Department of Justice, in a Stipulation also filed with the Court, tentatively has consented to termination of the Decree, but has reserved the right to withdraw its consent pending receipt of public comments.

On March 12, 1929, the United States filed a Petition against Ludowici-Celadon and sixteen individuals, including certain exclusive sales agents, ''preferred roofers,'' and certain Ludowici-Celadon officers, directors, and employees. The Petition alleged that the defendants conspired to restrain interstate trade and commerce in the manufacture and sale of ''roofing tile'' and to monopolize and attempt to monopolize such trade. The Decree defined ''roofing tile'' as ''tile produced from shale or clay and used as a covering for pitched roofs, cornices and other exposed surfaces of buildings and structures.''

The Decree perpetually enjoined the defendants from continuing the conspiracy or entering into any combination similar thereto. The Decree prohibited the defendants from engaging in any exclusionary or otherwise potentially or patently anticompetitive conduct. The Decree also perpetually enjoined Ludowici-Celadon from acquiring ownership or control of any additional plants engaged in the manufacture and sale of roofing tile.

The Department has filed with the Court a memorandum setting forth the reasons the United States believes that termination of the Decree would serve

the public interest. Copies of the motion papers, the Stipulation containing the United States' tentative consent, the United States' memorandum, and all other papers filed with the Court in connection with the motion will be available for inspection at the Antitrust Documents Group, Antitrust Division, Room 215, 325 7th Street, NW., Washington, DC 20530, and at the Office of the Clerk of the United States District court for the Northern District of Illinois, Eastern Division. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fees set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the Decree to the United States. Such comments must be received by the Antitrust Division within sixty days and will be filed with the Court by the United States. Comments should be addressed to Maribeth Petrizzi, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530 (202–307–0924).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 05–22664 Filed 11–15–05; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

November 8, 2005.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Darrin King on 202–693–4129 (this is not a toll-free number) or email: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Mine Safety and Health Administration (MSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Type of Review: Extension of currently approved collection.

Title: Noise Exposure Assessment; Audiometric Testing Evaluation, and Records and Training in all Mines.

OMB Number: 1219–0120.

Frequency: On occasion and Annually.

Type of Response: Recordkeeping and Third party disclosure.

Affected Public: Business or other for-profit and State, Local, or Tribal Government.

Estimated Number of Respondents: 14,391.

Estimated Annual Responses: 848,081.

Estimated Average Response Time: Varies from 2 minutes for a mine operator to provide oral notification of the opportunity to observe noise exposure monitoring to 5 hours for an operator of a large mine to develop a system to monitor noise exposure.

Estimated Annual Burden Hours: 107,600.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $4,355,111.

Description: 30 CFR part 62 requires records of miner exposures to noise so that mine operators and MSHA can evaluate the need for and effectiveness of engineering controls, administrative controls, and personal protective equipment to protect miners from harmful levels of exposure. The records are used by mine operators and MSHA to verify that the testing was done and the required actions implemented. Part 62 also requires the mine operator to provide training to overexposed miners about the hazards of noise exposure, hearing protector selection and use, the hearing test program, and the operator's noise controls. Records of training are needed to confirm that miners receive the information they need to become active participants in hearing conservation efforts.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 05–22676 Filed 11–15–05; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

DOL Partnerships for Compliance Assistance Program (PCAP) and Request for Applications for Partnerships

AGENCY: Office of Assistant Secretary for Policy/Office of Compliance Assistance Policy (ASP/OCA), U.S. Department of Labor (DOL).

ACTION: Notice.

SUMMARY: This notice announces an opportunity for partnerships and the re-opening of the DOL Partnerships for Compliance Assistance Program (PCAP).

The primary goal of these partnerships is to better inform businesses and workers, through nonprofit third-party membership organizations, of the compliance assistance tools and resources the Department has available to help them comply with its laws and regulations.

Letters of interest from nonprofit third-party membership organizations should contain information identifying the organization, including Web site URL and promotional literature describing their mission/purpose statement and constituent information; ideas on how a DOL partnership benefits the organization's constituents, members or stakeholders; and a contact person's name, title, address and telephone number. Letters of interest in PCAP should also identify the documents in the submission that should be kept confidential (e.g., due to copyright concerns).

DATES: Letters of interest will be considered if received at the appropriate address, as provided below, no later than 5 p.m. on January 3, 2006.

ADDRESSES: To submit letters of interest, or for further information on the Partnerships for Compliance Assistance Program (PCAP), you may write to the following address: Office of Compliance Assistance Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, Attention: Barbara

Bingham, 200 Constitution Ave NW., Rm. S2312, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Barbara Bingham, Director of the Office of Compliance Assistance Policy, (202) 693–5080, or visit *http://www.dol.gov/compliance.*

SUPPLEMENTARY INFORMATION:

Background

In March 2004, the Department of Labor (DOL), through the Office of the Assistant Secretary for Policy's Office of Compliance Assistance Policy (OCA), launched the Partnerships for Compliance Assistance Program (PCAP) which is aimed at promoting greater awareness and compliance with DOL's employment laws through partnerships and activities with nonprofit third-party membership organizations. Through DOL's and its partners' efforts, PCAP increases opportunities to provide DOL's customers with assistance in complying with federal employment laws. Following the March 2004 PCAP announcement, nine organizations were recommended and approved for partnership. Partnership activities include but are not limited to dissemination of compliance assistance educational materials, participation in Web casts, e-mail alerts of new compliance assistance tools or resources, newsletter articles, Web links, and speaking engagements.

OCA is again seeking partnership applications from nonprofit third-party trade, professional or labor membership organizations that share DOL's understanding of the importance of providing clear, accurate and easy-to-access compliance assistance to employers and other stakeholders, in order to protect the wages, health benefits, retirement security, safety and health of America's workforce.

Partnership efforts are designed to provide nonprofit third-party organizations and their members with an awareness of the various laws and regulations DOL administers and where to get accurate and easy-to-access information on compliance assistance. These partnerships enable DOL to reach a greater number of businesses and workers than it could solely through its own outreach efforts.

Signed at Washington, DC, this 9th day of November, 2005.

Barbara Bingham,

Director, Office of Compliance Assistance Policy.

[FR Doc. 05–22675 Filed 11–15–05; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,321]

Charter Fabrics, Inc.; New York, NY; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Charter Fabrics, Inc., New York, New York. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–53,321; Charter Fabrics, Inc. New York, New York (November 7, 2005).

Signed at Washington, DC, this 8th day of November, 2005.

Erica R. Cantor,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E5–6316 Filed 11–15–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,116]

Commscope, Inc.; Scottsboro, AL; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 12, 2005 in response to a petition filed by a company official on behalf of workers at Commscope, Inc., Scottsboro, Alabama.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 31st day of October, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–6323 Filed 11–15–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,185]

General Electric Company; Mebane, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 24, 2005 in response to a worker petition filed by the North Carolina Employment Security Commission on behalf of workers at General Electric Company, Mebane, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently the investigation has been terminated.

Signed at Washington, DC, this 4th day of November, 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–6324 Filed 11–15–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,436]

Leviton Manufacturing Company, Inc. Hillsgrove Division, Warwick, RI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) and section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) on July 11, 2005, applicable to all workers of Leviton Manufacturing Company, Inc., Hillsgrove Division, Warwick, Rhode Island. The notice was published in the **Federal Register** on August 26, 2005 (FR 70 pp. 50412 and 50415).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce residential wiring devices.

The review shows that the Department established the June 27, 2005 impact date for worker group eligibility to apply for TAA and ATAA based on the June 26, 2005 expiration date of the previous certification issued

for workers of Leviton Manufacturing Company, Inc., Hillsgrove Division in Warwick, Rhode Island (TA–W–50,350). Since the worker group was not previously certified eligible to apply for alternative trade adjustment assistance, the Department is amending the current ATAA certification to change the impact date from June 27, 2005 to June 20, 2004.

The amended notice applicable to TA–W–57,436 is hereby issued as follows:

All workers of Leviton Manufacturing Company, Inc., Hillsgrove Division, Warwick, Rhode Island, who became totally or partially separated from employment on or after June 27, 2005 through July 11, 2007, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974; and

All workers of Leviton Manufacturing Company, Inc., Hillsgrove Division, Warwick, Rhode Island, who became totally or partially separated from employment on or after June 20, 2004, are eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 3rd day of November, 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–6319 Filed 11–15–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, (19 U.S.C. 2273), the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the periods of October 2005.

In order for an affirmative determination to be made and a certification of eligibility to apply for directly-impacted (primary) worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance as an adversely affected secondary group to be issued, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criteria (a)(2)(A)(I.C.)(increased imports) and (a)(2)(B)(II.B) (No shift in production to a foreign country) have not been met.

TA–W–57,904A; Luhr Jensen and Sons, Inc., Smoker Products Division, Oak Grove Plant, Hood River, OR.

TA–W–57,975; TRW Automotive, Linkage, Suspension & Cast Products Division, Kingsway Plant, Fremont, OH.

The investigation revealed that criteria (a)(2)(A)(I.B.)(Sales or production, or both, did not decline) and (a)(2)(B)(II.B) (No shift in production to a foreign country) have not been met.

None

The investigation revealed that criterion (a)(2)(A)(I.A) and (a)(2)(B)(II.A) (no employment decline) has not been met.

TA–W–57,814; Leviton Manufacturing, Southern Devices Division, Morganton, NC.

TA–W–57,927; Hamtech, Inc., Big Rapids, MI.

TA–W–57,995; Hostmann—Steinberg, Pittsburgh Office, Hostmann-Steinberg, Pittsburgh, PA.

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–57,956; Modern Vending Company, At Fruit of the Loom, Jamestown, KY.

TA–W–58,038; Teradyne, Inc., Waltham Sales Office, Semiconductor Test Division, Waltham, MA.

TA–W–58,098; Northwest Airlines, Inc., Technical Operations Division, Anchorage, AK.

TA–W–57,970; Kellwood New England, Brockton, MA.

TA–W–57,974; Baltrans Global Logistics, LTD., Including Workers of ADECCO Temporary Services, Ft. Collins, CO.

TA–W–58,080; Stratex Networks, San Jose, CA.

TA–W–58,086; Total Distribution, Inc., Nitro Corporation Subdivision, Nitro, WV.

TA–W–58,130; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., Los Angeles Maintenance, Los Angeles, CA.

TA–W–58,130A; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., San Francisco Maintenance, San Francisco, CA.

TA–W–58,130B; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., Denver Maintenance, Denver, CO.

TA–W–58,130C; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., Chicago-Midway Maintenance, Chicago, IL.

TA–W–58,130D; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., Indianapolis Maintenance, Indianapolis, IN.

TA–W–58,130E; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., Minneapolis Maintenance, Minneapolis, MN.

TA–W–58,130F; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., New York Maintenance, New York, NY.

TA–W–58,130G; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., San Juan Maintenance, San Juan, PR.

TA–W–58,130H; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., Dallas, Ft. Worth Maintenance, Dallas, TX.

TA–W–58,144; General Electric Company, Industrial Motors & Controls Customer Service, Fort Wayne, IN.

TA–W–58,156; Furukawa Electric North American APD, Inc., Plymouth, MI.

The investigation revealed that criteria (a)(2)(A)(I.C.) (Increased imports and (a)(2)(B)(II.C) (has shifted production to a foreign country) have not been met.

TA–W–58,022; Meadow River Hardwood Lumber Company, Formerly Georgia-Pacific Corp., Rainelle, WV.

57,904A; Luhr Jensen and Sons, Inc., Smoker Products Division, Oak Grove Plant, Hood River, OR.

57,975; TRW Automotive, Linkage, Suspension & Cast Products Division, Kingsway Plant, Fremont, OH.

The investigation revealed that criteria (2) has not been met. The workers firm (or subdivision) is not a supplier or downstream producer to trade-affected companies.

TA–W–57,916; GTP Greenville, Inc., Greenville, SC.

TA–W–57,961; Holyoke Card Co., Springfield, MA.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of Section 222 have been met.

TA–W–57,860; Beagle Brand Hosiery, Inc., Hickory, NC: August 23, 2004.

TA–W–57,904; Luhr Jensen and Sons, Inc., Fishing Tackle Division, Jentech Plant, Hood River, OR: September 7, 2004.

TA–W–57,923; Boise Cascade, d/b/a Boise Building Solutions Manufacturing, Independence, OR: September 6, 2004.

TA–W–57,944; National Tool and Manufacturing, Kenilworth, NJ: September 12, 2004.

TA–W–57,954; Wausau Paper Corp., Brokaw, WI: September 14, 2004.

TA–W–57,971; Sapko International, Inc., Tompkinsville, KY: August 30, 2004.

TA–W–57,973; Tower Automotive, Kendallville Division, Kendallville, IN: September 6, 2004.

TA–W–57,986; Bravo Sports, On-Site Leased Workers of Select Personnel, Cypress, CA: September 19, 2004.

TA–W–58,001; Lea Industries, LA-Z-Boy Greensboro, Inc., Morristown, TN: September 16, 2004.

TA–W–58,004; Pebb Manufacturing Co., Inc., Mifflintown, PA: September 15, 2004.

TA–W–58,007; West Coast Quartz Corp., Union City, CA: September 14, 2004.

TA–W–58,009; Schuessler Knitting Mills, Inc., Chicago, IL: September 1, 2004.

TA–W–58,053; LA-Z-Boy Greensboro, Inc., Lea Industries and American Drew, On-Site Leased Workers of Kelly Temporary, N. Wilkesboro, NC: September 22, 2004.

TA–W–58,069; All Best, Inc., New York, NY: September 7, 2004.

TA–W–58,147; Valley Woodworking Company, Lenoir, NC: October 17, 2004.

TA–W–58,166; Penn-Union Corp., All Seasons Placement & Volt Temporary, Edinboro, PA: November 19, 2005.

The following certifications have been issued. The requirements of (a)(2)(B) (shift in production) of Section 222 have been met.

TA–W–57,957; Dana Corporation, Jefferson Street Foundry, Perfect Circle, IBM Bus., Muskegon, MI: September 12, 2004.

TA–W–57,960; Solectron Corp., Solectron USA, Inc., Lumberton, NJ: September 14, 2004.

TA–W–57,969; Holm Industries, Inc., Manpower, PMI & Labor Ready, Scottsburg, IN: August 31, 2004.

TA–W–58,035; Eastman Kodak Company, Rochester Paper Flow Division, On-Site Leased Workers From Datros, Burns & Aec, Rochester, NY: September 26, 2004.

TA–W–58,067; Yoder Brothers, Inc., Chualar, CA: September 25, 2004.

TA–W–58,115; Amphenol Interconnect Products, Prime Time Staffing, Staff Works, Rockwall, TX: October 10, 2004.

TA–W–58,151; Carhart, Inc., Dover, TN: October 18, 2004.

TA–W–57,957A; Dana Corporation, Harvey Street Machining, IBM Bus., Muskegon, MI: September 12, 2004.

TA–W–57,957B; Dana Corporation, Machine and Tool Center, IBM Bus., Muskegon, MI: September 12, 2004.

TA–W–57,957C; Dana Corporation, Sanford Street Machining, Perfect Circle, IBM Bus., Muskegon, MI: September 12, 2004.

The following certification has been issued. The requirement of supplier to a trade certified firm has been met.

TA–W–57,977; Carolina Mills, Inc., Plant #8, Maiden, NC: October 21, 2005.

TA–W–57,997; Unifi, Inc., Dyes Business Unit, Mayoden Plant 15, Mayoden, NC: July 30, 2005.

The following certification has been issued. The requirement of downstream producer to a trade certified firm has been met.

None

Negative Determinations for Alternative Trade Adjustment Assistance

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

In the following cases, it has been determined that the requirements of Section 246(a)(3)(ii) have not been met for the reasons specified.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

TA–W–57,954; Wausau Paper Corp., Brokaw, WI.

TA–W–58,004; Pebb Manufacturing Co., Inc., Mifflintown, PA.

The Department has determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

None

Since the workers are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

TA–W–57,814; Leviton Manufacturing, Southern Devices Division, Morganton, NC.

TA–W–57,904A; Luhr Jensen and Sons, Inc., Smoker Products Division, Oak Grove Plant, Hood River, OR.

TA–W–57,927; Hamtech, Inc., Big Rapids, MI.

TA–W–57,961; Holyoke Card Co., Springfield, MA.

TA–W–57,970; Kellwood New England, Brockton, MA.

TA–W–57,974; Baltrans Global Logistics, Ltd., Including Workers of ADECCO Temporary Services, Ft. Collins, CO.

TA–W–57,975; TRW Automotive, Linkage, Suspension & Cast Products Division, Kingsway Plant, Fremont, OH.

TA–W–57,995; Hostmann—Steinberg, Pittsburgh Office, Hostmann-Steinberg, Pittsburgh, PA.

TA–W–58,022; Meadow River Hardwood Lumber Company, Formerly Georgia-Pacific Corp., Rainelle, WV.

TA–W–58,080; Stratex Networks, San Jose, CA.

TA–W–58,086; Total Distribution, Inc., Nitro Corporation Subdivision, Nitro, WV.

TA–W–58,130; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., Los Angeles Maintenance, Los Angeles, CA.

TA–W–58,130A; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., San Francisco Maintenance, San Francisco, CA.

TA–W–58,130B; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., Denver Maintenance, Denver, CO.

TA–W–58,130C; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., Chicago-Midway Maintenance, Chicago, IL.

TA–W–58,130D; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., Indianapolis Maintenance, Indianapolis, IN.

TA–W–58,130E; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., Minneapolis Maintenance, Minneapolis, MN.

TA–W–58,130F; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., New York Maintenance, New York, NY.

TA–W–58,130G; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., San Juan Maintenance, San Juan, PR.

TA–W–58,130H; ATA Airlines, Inc., A Subsidiary of ATA Holdings Corp., Dallas, Ft. Worth Maintenance, Dallas, TX.

TA–W–58,144; General Electric Company, Industrial Motors & Controls Customer Service, Fort Wayne, IN.

TA–W–58,156; Furukawa Electric North American APD, Inc., Plymouth, MI.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None

Affirmative Determinations for Alternative Trade Adjustment Assistance

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determinations.

In the following cases, it has been determined that the requirements of Section 246(a)(3)(ii) have been met.

I. Whether a significant number of workers in the workers' firm are 50 years of age or older.

II. Whether the workers in the workers' firm possess skills that are not easily transferable.

III. The competitive conditions within the workers' industry (*i.e.*, conditions within the industry are adverse).

TA–W–58,115; Amphenol Interconnect Products, Prime Time Staffing, Staff Works, Rockwall, TX; October 10, 2004.

TA–W–57,860; Beagle Brand Hosiery, Inc., Hickory, NC; August 23, 2004.

TA–W–57,904; Luhr Jensen and Sons, Inc., Fishing Tackle Division, Jentech Plant, Hood River, OR: September 7, 2004.

TA–W–57,923; Boise Cascade, d/b/a Boise Building Solutions Manufacturing, Independence, OR; September 6, 2004.

TA–W–57,944; National Tool and Manufacturing, Kenilworth, NJ; September 12, 2004.

TA–W–57,973; Tower Automotive, Kendallville Division, Kendallville, IN; September 6, 2004.

TA–W–57,986; Bravo Sports, On-Site Leased Workers of Select Personnel, Cypress, CA; September 19, 2004.

TA–W–58,001; Lea Industries, LA–Z–Boy Greensboro, Inc., Morristown, TN; September 16, 2004.

TA–W–58,009; Schuessler Knitting Mills, Inc., Chicago, IL; September 1, 2004.

TA–W–58,053; LA–Z–Boy Greensboro, Inc., Lea Industries and American Drew, On-Site Leased Workers of Kelly Temporary, N. Wilkesboro, NC; September 22, 2004.

TA–W–58,069; All Best, Inc., New York, NY; September 7, 2004.

TA–W–58,147; Valley Woodworking Company, Lenoir, NC; October 17, 2004.

TA–W–58,166; Penn-Union Corp., All Seasons Placement & Volt Temporary, Edinboro, PA; October 6, 2004.

TA–W–57,957; Dana Corporation, Jefferson Street Foundry, Perfect Circle, IBM Bus., Muskegon, MI; September 12, 2004.

TA–W–57,957A; Dana Corporation, Harvey Street Machining, IBM Bus., Muskegon, MI; September 12, 2004.

TA–W–57,957B; Dana Corporation, Machine and Tool Center, IBM Bus., Muskegon, MI; September 12, 2004.

TA–W–57,957C; Dana Corporation, Sanford Street Machining, Perfect Circle, IBM Bus., Muskegon, MI; September 12, 2004.

TA–W–57,960; Solectron Corp., Solectron USA, Inc., Lumberton, NJ; September 14, 2004.

TA–W–58,035; Eastman Kodak Company, Rochester Paper Flow Division, On-Site Leased Workers From Datros, Burns & Aec, Rochester, NY; September 26, 2004.

TA–W–58,067; Yoder Brothers, Inc., Chualar, CA; September 25, 2004.

TA–W–57,977; Carolina Mills, Inc., Plant #8, Maiden, NC; October 21, 2005.

I hereby certify that the aforementioned determinations were issued during the month of October 2005. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 8, 2005.

Erica R. Cantor,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E5–6321 Filed 11–15–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,948, TA–W–56,948A, TA–W–56,948B]

Standard Commercial Corporation, Miller Road Tobacco Processing Facility, Miller Road Corporate Headquarters, Stantonsburg Road Factory and Office Complex, Now Known as Alliance One International, Inc., Wilson, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and section 246 of the Trade Act of 1974, (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on May 4, 2005, applicable to workers of Standard Commercial Corporation, Miller Road Tobacco Processing Facility, Wilson, North Carolina, Miller Road Corporate Headquarters, Wilson, North Carolina and Stantonsburg Road Factory and Office Complex, Wilson, North Carolina. The notice was published in the **Federal Register** on May 25, 2005 (70 FR 30145).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in activities relating to the processing of leaf tobacco.

New information shows that Standard Commercial Corporation, Miller Road Tobacco Processing Facility, Miller Road Corporate Headquarters, and Stantonsburg Road Factory and Office Complex, Wilson, North Carolina is now known as Alliance One International, Inc. following a merger in May 2005. Workers separated from employment at the subject firm had their wages reported under two separate unemployment insurance (UI) tax accounts for Alliance One International, Inc.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Standard Commercial Corporation, Miller Road Tobacco Processing Facility, Miller Road Corporate Headquarters and Stantonsburg Road Factory and Office Complex, Wilson, North Carolina who were adversely affected by increased company imports.

The amended notice applicable to TA–W–56,948 is hereby issued as follows:

All workers of Standard Commercial Corporation, now known as Alliance One International, Inc., Wilson Road Tobacco Processing Facility, Wilson, North Carolina (TA–W–56,948), Standard Commercial Corporation, now known as Alliance One International, Inc., Miller Road Corporate Headquarters, Wilson North Carolina (TA–W–56,948A), and Standard Commercial Corporation, now known as Alliance One International, Inc. Stantonsburg Road Factory and Office Complex, Wilson, North Carolina, who became totally or partially separated from employment on or after March 25, 2004, through May 4, 2007, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 2nd day of November, 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–6318 Filed 11–15–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,196]

Thomas C. Wilson, Inc.; Long Island City, NY; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 24, 2005 in response to a petition filed by a company official on behalf of workers at Thomas C. Wilson, Inc., Long Island City, New York.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 3rd day of November, 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–6325 Filed 11–15–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,928]

Wabash Alloys; Wabash, IN; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Wabash Alloys, Wabash, Indiana. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–57,928; Wabash Alloys, Wabash, Indiana (November 7, 2005).

Signed at Washington, DC, this 8th day of November, 2005.

Erica R. Cantor,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E5–6322 Filed 11–15–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,674 and TA–W–55,674B]

Winchester Electronics, a Subsidiary of Northrop Grumman Including Leased Workers of Hamilton Connections and Agentry Wallingford, CT; Including an Employee of Winchester Electronics Wallingford, CT Located in Los Altos, CA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Negative Determination Regarding Eligibility To Apply for Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and section 246 of the Trade Act of 1974 (26 U.S.C. 2813, as amended, the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and a Negative Determination Regarding Eligibility to Apply for Alternative Trade Adjustment Assistance on October 13, 2004, applicable to workers of Winchester Electronics, a subsidiary of Northrop Grumman, including leased workers of Hamilton Connections and Agentry, Wallingford, Connecticut. The notice was published in the **Federal Register** on November 12, 2004 (69 FR 65463).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that a worker separation occurred involving an employee of the Wallingford, Connecticut facility of Winchester Electronics located in Los Altos, California. Mr. John Mitchell provided engineering support services for the production of connectors and cable assemblies at the Wallingford, Connecticut location of the subject firm.

Based on these findings, the Department is amending this certification to include an employee of the Wallingford, Connecticut facility of Winchester Electronics, a subsidiary of Northrop Grumman, located in Los Altos, California.

The intent of the Department's certification is to include all workers of Winchester Electronics, a subsidiary of Northrop Grumman, Wallingford, Connecticut, who were adversely affected by a shift in production to Mexico.

The amended notice applicable to TA–W–55,674 is hereby issued as follows:

''All workers of Winchester Electronics, a subsidiary of Northrop Grumman, including leased workers of Hamilton Connections and Agentry, Wallingford, Connecticut (TA–W–55,674), including employees of Winchester Electronics, a subsidiary of Northrop Grumman, Wallingford, Connecticut, located in Portsmouth, New Hampshire (TA–W–55,674A), and Los Altos, California (TA–W–55,674B), who became totally or partially separated from employment on or after September 22, 2003, through October 13, 2006, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974;'' and

I further determine that all workers of Winchester Electronics, a subsidiary of Northrop Grumman, including leased workers of Hamilton Connections and Agentry, Wallingford, Connecticut, including employees of Winchester Electronics, a subsidiary of Northrop Grumman, Wallingford, Connecticut, located in Portsmouth, New Hampshire, and Los Altos, California, are denied eligibility to apply for alternative trade adjustment assistance under section 246 of the trade Act of 1974.

Signed at Washington, DC, this 4th day of November, 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–6317 Filed 11–15–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Summaries Unemployment Insurance (UI) Trust Fund Activities Reports

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before January 17, 2006.

ADDRESSES: Send comments to James E. Herbert, Room C4526, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 693–2926 (this is not a toll-free number). E-mail address is *Herbert.James@dol.gov* and the fax number is (202) 693–2874.

FOR FURTHER INFORMATION CONTACT: James E. Herbert, Room C4526, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 693–2926 (this is not a toll-free number). E-mail address is *Herbert.James@dol.gov* and the fax number is (202) 693–2874.

SUPPLEMENTARY INFORMATION:

I. Background

Section 303(a)(4) of the Social Security Act (SSA) and Section 3304(a)(3) of the Federal Unemployment Tax Act (FUTA) require that all money received in the unemployment fund of a state be paid immediately to the Secretary of Treasury to the credit of the Unemployment Trust Fund (UTF). This is the ''immediate deposit'' standard.

Section 303(a)(5) of the SSA and Section 3304(a)(4) of the FUTA require that all money withdrawn from the UTF be used solely for the payment of unemployment compensation, exclusive of the expenses of administration. This is the ''limited withdrawal standard''.

Federal law (Section 303(a)(6) of the SSA) gives the Secretary of Labor the authority to require the reporting of information deemed necessary to assure state compliance with the provisions of the SSA.

Under this authority, the Secretary of Labor requires the following reports to monitor state compliance with the immediate deposit and limited withdrawal standards:

ETA 2112: UI Financial Transactions Summary, Unemployment Fund
ETA 8401: Monthly Analysis of Benefit Payment Account
ETA 8405: Monthly Analysis of Clearing Account
ETA 8413: Income—Expense Analysis UC Fund, Benefit Payment Account
ETA 8414: Income—Expense Analysis UC Fund, Clearing Account
ETA 8403: Summary of Financial Transactions—Title IX Funds

These reports are submitted to the Office of Workforce Security (OWS) in the ETA which uses them to:

- Monitor cash flows into and out of the UTF to determine state compliance with the immediate deposit and limited withdrawal standards.
- Assure proper accounting for unemployment funds, an integral part of preparing the Department's consolidated financial statements, required by the Chief Financial Officer Act of 1990. The UTF is the single largest asset and liability on the statements.
- Reconcile the Department's records with the U.S. Treasury records.
- Develop UI research and actuarial reports, especially to monitor the solvency of the UTF.

The cited reports have been submitted monthly by the states the past several years in electronic format, with the exception of the ETA 8403. The Department is working with the U.S. Treasury to convert the ETA 8403 to an electronic format by December 31, 2006.

Since the reports are essential to the Department's financial statements and program oversight responsibilities, the Department seeks Office of Management and Budget (OMB) approval for a three year extension to March 31, 2009.

II. Desired Focus of Comments

Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension for the collection of the UI Trust Fund Summaries reports. Comments should:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above in the **ADDRESSES** section of this notice.

III. Current Actions

Type of review: Extension.

Agency: Employment and Training Administration.

Title: ETA Summaries UI Trust Fund Activities.

OMB Number: 1205–0154.

Agency Numbers: ETA 2112, ETA 8401, ETA 8403, ETA 8405, ETA 8413 and ETA 8414.

Affected Public: 50 states, Washington, DC, Puerto Rico, and the Virgin Islands.

Total respondents: 53 states.

Frequency: ETA 8403: As needed. This report is submitted only when there is activity requiring update of the state's Reed Act account. ETA 2112, 8401, 8405, 8413, 8414: Monthly.

Total Responses: 53 states × 12 months = 636 responses.

Average Time Per Response: ETA 2112, 8401, 8405, 8413, 8414: 636 × 2.5 hours for all 5 reports (.5 hours for each report) = 1,590 hours.

ETA 8403: 53 states × 6 annual responses × 30 minutes per response = 159 reporting hours.

Estimated Total Burden Hours: 1,749 hours.

Estimated Total Burden Cost: $0.

Comments in response to this notice will be summarized and/or included in the request to the OMB for approval; they will also become part of the public record.

Dated: November 8, 2005.

Cheryl Atkinson,

Administrator, Office of Workforce Security.

[FR Doc. E5–6320 Filed 11–15–05; 8:45 am]

BILLING CODE 4510–30–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act; Meeting

November 4, 2005.

TIME AND DATE: 10 a.m., Thursday, November 17, 2005.

PLACE: The Richard V. Backley Hearing Room, 9th Floor, 601 new Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on in the matter *Secretary of Labor* v. *Martin County Coal Corporation and Geo/Environmental Associates,* Docket Nos. KENT 2002–42–R, KENT 2002–43–R, KENT 2002–44–R, KENT 2002–45–R, KENT 2002–251, KENT 2002–261, and KENT 2002–262. (Issues include whether the judge properly dismissed citations issued to Martin County Coal Corp. and Geo/Environmental Associates for various violations of 30 CFR 77.216(d), 77.216–3(d), and 77.216–4(a)(2); whether Martin County Coal Corp. violated 30 CFR 77.216(d) as found by the judge; and whether and Geo/Environmental Associates violated 30 CFR 77.216–4(a)(7) as found by the judge).

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs, subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

FOR FURTHER INFORMATION CONTACT: Jean Ellen, (202) 434–9950/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 05–22832 Filed 11–14–05; 3:31 pm]

BILLING CODE 6735–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[05–152]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Mr. Walter Kit, Mail Code V, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Mr. Walter Kit, NASA Reports Officer, NASA Headquarters, 300 E Street SW., Office ID JA000 Code V, Washington, DC 20546, (202) 358–1350, *Walter.Kit-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Aeronautics and Space Administration (NASA) is requesting renewal of an existing collection that is used to help NASA to assess the services provided by its procurement offices. The NASA Procurement Customer Survey is used to determine whether NASA's procurement offices are providing an acceptable level of service to the business/educational community, and if not, which areas need improvement.

Respondents will be business concerns and educational institutions that have been awarded a NASA procurement or are interested in receiving such an award.

II. Method of Collection

NASA uses electronic methods to collect information from collection respondents.

III. Data

Title: NASA Procurement Customer Survey.

OMB Number: 2700–0101.

Type of Review: Renewal of a currently approved collection.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Estimated Number of Respondents: 1000.

Estimated Time Per Response: 15 minutes.

Estimated Total Annual Burden Hours: 125.

Estimated Total Annual Cost: $0.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has

practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Dated: November 1, 2005.

Patricia L. Dunnington,

Chief Information Officer.

[FR Doc. 05–22666 Filed 11–15–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[05–153]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Mr. Walter Kit, Office ID JA000, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Mr. Walter Kit, NASA Reports Officer, NASA Headquarters, 300 E Street, SW., Mail Code V, Washington, DC 20546, 202–358–1350, *Walter.Kit-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Aeronautics and Space Administration (NASA) is requesting renewal of an existing collection that is used to help NASA ensure proper accounting of Federal funds provided under grants and cooperative agreements with institutions of higher education and other non-profit organizations. Reporting and recordkeeping are prescribed in 14 CFR 1260.10, 1260.20 1260.21, 1260.22, 1260.24, 1260.26, 1260.32, 1260.33, 1260.35, 1260.73, 1260.75, and 1260.77. Furthermore, collection constitutes NASA's implementation of those parts of OMB Circular A–110 deemed applicable to Agency awards; i.e., submission of SF 272's, recordkeeping, and prudent stewardship of Government-provided funds.

II. Method of Collection

NASA uses electronic methods to collect information from collection respondents.

III. Data

Title: Financial Monitoring and Control—Grants and Cooperative Agreements.

OMB Number: 2700–0049.

Type of Review: Renewal of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 1,172.

Estimated Time Per Response: Varies.

Estimated Number of Responses Per Respondent: Varies.

Number of Annual Responses: 47,710.

Estimated Total Annual Burden Hours: 291,326.

Estimated Total Annual Cost: $0.

Frequency of Report: As needed.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of information on respondents, including automated collection techniques or the use of other forms of information technology.

Dated: November 7, 2005.

Patricia L. Dunnington,

Chief Information Officer.

[FR Doc. 05–22667 Filed 11–15–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL LABOR RELATIONS BOARD

Appointments of Individuals to Serve as Members of Performance Review Boards

5 U.S.C. 4314(c)(4) requires that the appointments of individuals to serve as members of performance review boards be published in the **Federal Register**. Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of performance review boards in the National Labor Relations Board for the rating year beginning October 1, 2004 and ending September 30, 2005.

Name and Title

Richard L. Ahearn—Regional Director, Region 19
Frank V. Battle—Deputy Director of Administration
John F. Colwell—Chief Counsel to Board Member
Harold J. Datz—Chief Counsel to the Chairman
John H. Ferguson—Associate General Counsel, Enforcement Litigation
Terence Flynn—Chief Counsel to Board Member
Robert A. Giannasi—Chief Administrative Law Judge
Lester A. Heltzer—Executive Secretary
John E. Higgins—Deputy General Counsel
Peter B. Hoffman—Regional Director, Region 34
Gloria Joseph—Director of Administration
Barry J. Kearney—Associate General Counsel, Advice
David B. Parker—Deputy Executive Secretary
Gary W. Shinners—Chief Counsel to Board Member
Richard A. Siegel—Associate General Counsel, Operations-Management
Lafe E. Solomon—Director, Office of Representation Appeals
Peter D. Winkler—Chief Counsel to Board Member

Dated: November 10, 2005.

By Direction of the Board.

Lester A. Heltzer,

Executive Secretary.

[FR Doc. 05–22669 Filed 11–15–05; 8:45 am]

BILLING CODE 7545–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Meeting

AGENCY HOLDING MEETING: National Science Board.

DATE AND TIME: November 22, 2005, 1 p.m.–2 p.m. (ET)

PLACE: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Public Meeting Room 120.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Tuesday, November 22, 2005, Open Session

Open Session (1–2 p.m.)

Discussion of draft NSB report, National Science Board 2020 Vision for the National Science Foundation (*NSB–05–142*), *http://www.nsf.gov/nsb/documents/2005/nsb05142/cover_letter.pdf.*

FOR FURTHER INFORMATION CONTACT: Dr. Michael P. Crosby, Executive Officer and NSB Office Director. (703) 292–7000. *http://www.nsf.gov/nsb.*

Michael P. Crosby,

Executive Officer and NSB Office Director.

[FR Doc. 05–22705 Filed 11–15–05; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. STN 50–454]
[License No. NPF–37]

Exelon Generation Company, LLC; Notice of Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a director's decision with regard to a petition dated March 2, 2005, filed by Mr. Barry Quigley, hereinafter referred to as the ''petitioner.'' On March 4, 2005, the petitioner provided additional clarifying information during a conference call with the Petition Review Board. The conference call was recorded; a transcript is publicly available in the Nuclear Regulatory Commission's (NRC's) Agencywide Document Access and Management System (ADAMS) at Accession No. ML050870619. The petition concerns the operation of the Byron Station, Unit 1 which is owned and operated by Exelon Generation Company, LLC (Exelon).

The petition requested that the NRC take enforcement action against Exelon's Byron Station for failure to comply with 10 CFR part 50, Appendix B, Criterion XVI. Specifically, the petitioner stated that the 1C loop stop isolation valve (LSIV) has been broken for at least 6 years and has not been repaired.

The petition of March 2, 2005, raises concerns originating from the condition that the 1C LSIV can be difficult to close, to the point that the protective features of the motor actuate. The petitioner indicated that the failure mechanism is metal-to-metal contact between the valve disc and a misaligned valve guide which introduces debris into the reactor coolant system (RCS).

A public meeting with Exelon was held in the NRC Region III offices on March 21, 2005; a summary of the meeting is available at ADAMS Accession No. ML050820530. The petitioner was in attendance and offered comments prior to adjournment of the meeting. The licensee made several submittals containing additional information regarding the LSIV performance and testing as well as a May 27, 2005, response to an NRC staff Request for Additional Information.

As a result of evaluation of the information provided, the NRC prepared a proposed Director's Decision, copies of which were sent to the petitioner and to the licensee for comment on July 29, 2005, and August 1, 2005, respectively. The petitioner responded with comments on August 14, 2005, and the licensee responded on August 12, 2005. The comments and the NRC staff's response to them are included in the Director's Decision.

The Director of the Office of Nuclear Reactor Regulation has determined that the request to take enforcement action against Exelon's Byron Station for failure to comply with 10 CFR part 50, Appendix B, Criterion XVI, be denied. The reasons for this decision are explained in the director's decision pursuant to Title 10 of Code of Federal Regulations (10 CFR) Section 2.206 DD–05–05, the complete text of which is available in ADAMS for inspection at the Commission's Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and from the ADAMS Public Library component on the NRC's Web site, *http://www.nrc.gov/reading-rm.html* (the Public Electronic Reading Room).

The staff concluded that the 1C LSIV (which does not perform a safety function) is unlikely to be degraded to a condition where the valve guides, or a portion of the valve guides, can loosen and migrate to the reactor vessel during normal plant operation. Nevertheless, the NRC considered the potential for the release of loose parts into the RCS at Byron Station, Unit 1. The NRC concluded that loose parts from the 1C LSIV have an acceptability low potential of occurrence. Even so, the licensee has provisions to locate, identify, and respond to both large and small loose parts. Further, because the licensee complies with NRC Staff Position RSB 5–1, ''Design Requirements of the Residual Heat Removal System,'' the NRC is assured that for LSIV loose parts scenarios that postulate obstruction of the chemical and volume control system letdown line or obstruction of the pressurizer spray line/nozzle will not prevent safe shutdown of Byron Station, Unit 1.

A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the director's decision in that time.

Dated at Rockville, Maryland, this 8th day of November, 2005.

For the Nuclear Regulatory Commission.

J.E. Dyer,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. E5–6307 Filed 11–15–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–27]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for Construction and Operation of the Humboldt Bay Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability and Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: James Park, Environmental and Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415–5835; Fax number: (301) 415–5397; E-mail: *jrp@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

By letter dated December 15, 2003, Pacific Gas and Electric Company (PG&E) submitted an application to the U.S. Nuclear Regulatory Commission (NRC), requesting a site-specific license to build and operate an Independent Spent Fuel Storage Installation (ISFSI),

to be located on the site of the Humboldt Bay Power Plant (HBPP), in Humboldt County, California.

A holder of an NRC license for a power reactor under 10 CFR part 50 can construct and operate an ISFSI at that power reactor site under the general license provisions of 10 CFR part 72, or may apply for a separate site-specific license. PG&E has applied for a site-specific license for the proposed Humboldt Bay ISFSI in accordance with the applicable regulations in 10 CFR part 72.

The NRC staff has prepared an Environmental Assessment (EA) in support of its review of PG&E's application in accordance with the requirements of 10 CFR part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate.

II. EA Summary

Background

The HBPP consists of five electric generation units. Unit 3, a boiling water reactor, operated for approximately 13 years before being shutdown for a refueling in July 1976. It has remained inactive since that time. In 1988, the NRC approved the SAFSTOR plan for Unit 3 and amended the plant's license under 10 CFR part 50 to a ''possession only'' license that expires on November 9, 2015. (SAFSTOR is a method of decommissioning in which the nuclear facility is placed and maintained in such condition that the nuclear facility can be safely stored and subsequently decontaminated (deferred decontamination) to levels that permit release for unrestricted use.) PG&E currently stores spent fuel from previous HBPP operations in the Unit 3 spent fuel pool.

Review Scope

The NRC staff reviewed PG&E's request in accordance with the requirements under 10 CFR part 72 for ISFSIs and under the environmental protection regulations in 10 CFR part 51. The EA provides the results of the NRC staff's environmental review; the staff's radiation safety review is documented separately in a Safety Evaluation Report.

The NRC staff prepared the EA in accordance with NRC requirements in 10 CFR 51.21 and 51.30, and with the associated guidance in NRC report NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated with NMSS Programs.''

The NRC staff's review did not address either the decommissioning of Unit 3 following transfer of the spent fuel to the ISFSI, nor the transportation of the fuel offsite to a permanent federal repository.

Proposed Action

The proposed action is for PG&E to construct, operate, and decommission an ISFSI at the HBPP site. The ISFSI would provide temporary dry storage capacity for the spent nuclear fuel that PG&E currently stores in the HBPP spent fuel pool, located in the shut-down Unit 3. The proposed ISFSI is intended as an interim facility consisting of an in-ground concrete structure with storage capacity for six shielded casks. Five casks would contain spent nuclear fuel and one would contain Greater-than-Class C (GTCC) waste. (GTCC waste is low-level radioactive waste generated by the commercial sector that exceeds NRC concentration limits for Class C low-level waste, as specified in 10 CFR 61.55). All such spent fuel and GTCC waste to be placed in the casks was generated from prior HBPP operations. The spent fuel would be stored in the ISFSI until the U.S. Department of Energy (DOE) takes possession and transports the spent fuel offsite to a federal repository, or until PG&E elects to transfer the spent fuel to another acceptable offsite interim storage facility, if one becomes available.

Need for the Proposed Action

Removal of the spent fuel from the HBPP Unit 3 spent fuel pool to the proposed ISFSI would permit the dismantling of the existing radioactive reactor structures, thereby providing for earlier decommissioning of the HBPP Unit 3 facility. This would allow earlier termination of the SAFSTOR license and restoration of most areas on site to unrestricted use.

Transfer of the fuel to dry storage in an ISFSI also would result in lowered operational costs for PG&E. In contrast with the currently-used wet storage method (i.e., storage in the spent fuel pool), dry storage in an ISFSI is a passive storage process that does not require extensive operating equipment or personnel to maintain. The dry storage process would reduce both the amount of effluents generated by the existing SAFSTOR operation and the amount of solid radioactive wastes generated.

Alternatives to the Proposed Action

No Action Alternative:

Under the ''no action'' alternative, PG&E would continue to store the spent fuel from prior operations at the HBPP in the spent fuel pool in Unit 3. PG&E would continue to conduct approved and appropriate maintenance and monitoring. Unit 3 would remain under the SAFSTOR license.

Other Alternatives:

The NRC staff also evaluated other alternatives to the proposed action. First, PG&E could construct a new storage pool and support facilities separate from the existing HBPP Unit 3, which would allow PG&E to decommission the Unit 3 facility. However, this alternative would increase the number of times a fuel assembly was handled and, consequently, the potential occupational exposure to the workers. The additional maintenance and surveillance activities to support operation of the new pool would also result in higher worker exposures. This alternative also has a high cost, due to construction of the new pool and facilities, and for the dry transfer system needed to transfer the fuel. For these reasons, building a new fuel pool was not considered a viable alternative and was eliminated from further detailed study.

A second alternative would be to transport the spent fuel offsite, either (1) to store at another nuclear power plant with sufficient capacity; (2) to store at a permanent federal or privately-owned repository; or (3) to reprocess overseas. None of these offsite options was deemed viable at this time. Storage at another power plant would require a receiving utility to be licensed to accept the HBPP spent nuclear fuel and willing to accept the fuel. Because most nuclear power plant operators are expected to face their own limitations on spent fuel storage capacity, PG&E felt it unlikely that other operators would be willing to accept spent fuel owned by another company. Secondly, with respect to storage at a repository, neither a permanent federal repository nor a privately-owned facility are currently available in the United States. Finally, although reprocessing facilities exist in other countries, the political, legal, and logistical uncertainties and the high cost of shipping spent fuel overseas make this alternative not viable.

The NRC staff also evaluated PG&E's analysis of alternate locations on the HBPP site for the proposed ISFSI and PG&E's selection of an in-ground vault design versus a surface pad design for the proposed ISFSI. The NRC staff determined that PG&E's selections of a final proposed location and design for the proposed ISFSI were acceptable.

Environmental Impacts

No-Action Alternative:

Under this alternative, PG&E would not be permitted to completely

dismantle the existing HBPP Unit 3 radioactive reactor structures, and therefore would not be able to decommission the Unit 3 facility to allow unrestricted use, and thus could not terminate the SAFSTOR license. PG&E would continue to incur the costs and impacts associated with maintaining and monitoring the spent fuel pool, the management of solid radioactive wastes, and the monitoring of effluents generated by the existing SAFSTOR operation.

Proposed Action:

The environmental impacts due to construction of the HBPP ISFSI are expected to be small. The ISFSI would be located within the boundaries of the 143-acre PG&E-controlled site area, and constructed in an area previously disturbed during HBPP operations. Construction activities associated with the proposed ISFSI would impact less than one acre of land area. This impact would involve excavating the vault area, disposing the excavated spoils, forming and pouring of the vault structure, widening and extending the oil supply road, constructing security structures, and controlling dust and runoff. Dust generated during construction is expected to be minimal given that the construction traffic would be using paved onsite and offsite roadways. Gaseous emissions from construction equipment would be mitigated through regular maintenance of the equipment.

Excavated material disposed at the onsite spoils area would be contoured to the existing slope. As appropriate, PG&E would use best management practices to address storm water runoff, erosion control, and revegetation. All areas disturbed during construction activities would be revegetated with an appropriate seed mix.

ISFSI construction activities are not expected to impact any state or federally listed threatened or endangered plant, terrestrial wildlife, marine life, or fish species. Construction would not impact historical or cultural resources in the region around or at the HBPP site.

The storage of spent fuel in casks at the ISFSI is expected to result in small radiation doses to the offsite population. The closest point that a member of the public may access (i.e., via the public trail) is 16.2 m (53 ft) from the ISFSI, and the nearest resident is approximately 244 m (800 ft) away. In its environmental report, PG&E provided the results of conservative calculations of offsite dose (PG&E, 2003a). These calculations assumed contributions to the total dose due to direct radiation from the spent fuel in the storage casks, as well as contributions from the spent fuel in the MPCs during their transfer to the storage overpacks and from the casks as they are transported to and loaded into the ISFSI. The MPCs would be seal-welded and therefore are considered leak tight, so that no leakage is expected during normal operation, off-normal conditions, or design basis accidents. The analysis also assumed that access to the public trail would be controlled to keep members of the public more than 100 meters (328 ft) away while the spent fuel casks are transported to and loaded into the ISFSI.

Assuming a continuous occupancy time (i.e., 8760 hours per year), the calculated annual dose to the nearest resident from ISFSI activities is 0.0631 mSv (6.31 mrem), which is significantly below the annual limits specified in 10 CFR 72.104(a) and 10 CFR 20.1301(a), of 0.25 mSv (25 mrem) and 1 mSv (100 mrem), respectively. The cumulative offsite dose to the nearest resident from all site activities is calculated to be about 0.0641 mSv/year (6.41 mrem/year), which is also significantly less than the limit referenced in 10 CFR 20.1301. Assuming an occupancy time of 2080 hours per year (based on a 40-hour week and 52 weeks per year, although the public trail is only occasionally used), PG&E calculated an annual dose at the point of closest access of approximately 0.21 mSv (21 mrem). Following transfer of the six casks to the ISFSI, the annual offsite dose will be limited primarily to direct radiation, thus reducing the calculated doses at the point of closest access and to the nearest resident to approximately 0.17 mSv/yr (17 mrem/yr) and 0.045 mSv/yr (4.5 mrem/yr) respectively. Given the assumptions in the calculations, actual doses are expected to be less than these values.

Conclusion

The NRC staff reviewed the environmental impacts of the proposed action in accordance with the requirements of 10 CFR part 51. The NRC staff has determined that the storage of spent nuclear fuel in an in-ground ISFSI at the Humboldt Bay Power Plant would not significantly affect the quality of the human environment. Therefore, an environmental impact statement is not warranted for the proposed action, and pursuant to 10 CFR 51.31, a Finding of No Significant Impact (FONSI) is appropriate.

Agencies and Persons Consulted

The NRC staff consulted with several other agencies regarding the proposed action. These consultations were intended to afford the designated State Liaison agency the opportunity to comment on the proposed action, and to ensure that the requirements of Section 106 of the National Historic Preservation Act (NHPA) and Section 7 of the Endangered Species Act (ESA) were met with respect to the proposed action.

By letter dated July 15, 2005, the NRC staff provided a pre-decisional draft EA for review and comment to the California Energy Commission (CEC), which is the designated State liaison agency. The CEC provided its comments in a telephone call in August 2005, stating its desire to see an expanded discussion of seismic and tsunami hazards in the EA. The NRC staff revised the discussion of seismic and tsunami hazards in response to the CEC's comments. On behalf of the CEC, Ms. Byron provided additional editorial comments by electronic mail on September 30, 2005, and in that same electronic mail message, raised the issue of potential terrorist attacks. The Commission previously has ruled that analysis of the possibility of a terrorist attack is ''speculative and simply too far removed from the natural or expected consequences of agency action to require a study under [the National Environmental Policy Act]'' (Commission Memorandum and Order CLI–02–25. ''In the Matter of Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation).'' December 18, 2002).

With respect to the requirements of Section 7 of the ESA, the NRC staff consulted with the U.S. Fish and Wildlife Service, Arcata Fish and Wildlife Office (USFWS/AFWO), and the National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries). As a result of this consultation, by letters dated July 29, 2005, the NRC staff separately notified the USFWS/AFWO and NOAA Fisheries of its determination that the proposed action would have no effect on an endangered or threatened species or on critical habitat within the area of influence for the proposed action and provided an assessment in support of this determination.

Pursuant to the requirements of Section 106 of the NHPA, the NRC staff consulted with the California Office of Historic Preservation, the California Native American Heritage Commission, and three Federally-recognized Indian Tribes: the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria. As a result of this consultation and its own evaluation, the NRC staff determined that no historic or cultural resources would be adversely

affected by the proposed action. The California Office of Historic Preservation concurred in this determination by letter dated October 25, 2005.

III. Finding of No Significant Impact

On the basis of the EA, the NRC has concluded that there are no significant environmental impacts from the proposed action of constructing and operating the Humboldt Bay ISFSI and has determined not to prepare an environmental impact statement.

IV. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.NRC.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are:

Document date	Description	ADAMS accession No.
10/30/2005	NRC staff's EA for the proposed ISFSI	ML052430106
12/15/2003	PG&E's transmittal letter	ML033640441
12/15/2003	PG&E's Environmental Report	ML033640453 ML033640677
7/15/2005	NRC staff letter transmitting the pre-decisional draft EA to the CEC	ML051780043
7/29/2005	NRC staff's transmittal of determination of no effect to USFWS/AFWO	ML052030228
7/29/2005	NRC staff's transmittal of determination of no effect to NOAA Fisheries	ML051380126
10/25/2005	SHPO concurrence on NRC staff determination of no adverse affect	ML053040051

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland this 4th day of November, 2005.

For the Nuclear Regulatory Commission.

Scott C. Flanders,

Deputy Director, Environmental & Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E5–6315 Filed 11–15–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act; Meeting

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of November 14, 21, 28, December 5, 12, 19, 2005.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of November 14, 2005

There are no meetings scheduled for the Week of November 14, 2005.

Week of November 21, 2005—Tentative

Monday, November 21, 2005

9:25 a.m. Affirmation Session (Public Meeting) (Tentative)

a. U.S. Department of Energy (High Level Waste Repository: Pre-Application Matters); NRC staff request for stay of LBP—05–27 (Tentative).

b. Louisiana Energy Services, L.P. (National Enrichment Facility) Remaining Claims in Petition for Review of LBP–05–13 (Environmental Contentions) (Tentative).

9:30 a.m. Briefing on Status of New Reactor Issues, Part 1 (Public Meeting); (Contact: Laura Dudes, 301–415–0146)

This meeting will be webcast live at the Web address—*http://www.nrc.gov*

1:30 p.m. Briefing on Status of New Reactor Issues, Part 2 (Public Meeting); (Contact: Laura Dudes, 301–415–0146)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of November 28, 2005—Tentative

Tuesday, November 29, 2005

9:30 a.m. Discussion of Management Issues (Closed-Ex. 2).

Wednesday, November 30, 2005

9:30 a.m. Briefing on EEO Program (Public Meeting); (Contact: Corenthis Kelley, 301–415–7380).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of December 5, 2005—Tentative

Thursday, December 8, 2005

1 p.m. Meeting with the Advisory Committee on Reactor Safeguards (ACRS); (Contact: John Larkins, 301–415–7360).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of December 12, 2005—Tentative

Monday, December 12, 2005

9:30 a.m. Discussion of Security Issues (Closed-Ex. 1).

Wednesday, December 14, 2005

1:30 p.m. Discussion of Security Issues (Closed—Ex. 1).

Thursday, December 15, 2005

1:30 p.m. Briefing on Threat Environment Assessment (Closed—Ex. 1).

Week of December 19, 2005—Tentative

There are not meetings scheduled for the Week of December 19, 2005.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to

participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify the NRC's Disability Program Coordinator, August Spector, at (301) 415–7080, TDD: 301–415–2100, or by e-mail at *aks@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: November 9, 2005.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 05–22796 Filed 11–14–05; 10:07 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

State of Minnesota: NRC Draft Staff Assessment of a Proposed Agreement Between the Nuclear Regulatory Commission and the State of Minnesota

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of a Proposed Agreement with the State of Minnesota.

SUMMARY: By letter dated July 6, 2004, Governor Tim Pawlenty of Minnesota requested that the U.S. Nuclear Regulatory Commission (NRC) enter into an Agreement with the State as authorized by section 274 of the Atomic Energy Act of 1954, as amended (Act).

Under the proposed Agreement, the Commission would discontinue, and Minnesota would assume, portions of the Commission's regulatory authority exercised within the State. As required by the Act, NRC is publishing the proposed Agreement for public comment. NRC is also publishing the summary of a Draft Staff Assessment of the Minnesota Program. Comments are requested on the proposed Agreement and the NRC Draft Staff Assessment which finds the Program adequate to protect public health and safety and compatible with NRC's program for regulation of agreement material.

The proposed Agreement would release (exempt) persons who possess or use certain radioactive materials in Minnesota from portions of the Commission's regulatory authority. The Act requires that NRC publish those exemptions. Notice is hereby given that the pertinent exemptions have been previously published in the **Federal Register** and are codified in the Commission's regulations as 10 CFR part 150.

DATES: The comment period expires December 9, 2005. Comments received after this date will be considered if it is practical to do so, but the Commission cannot assure consideration of comments received after the expiration date.

ADDRESSES: Written comments may be submitted to Mr. Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Washington, DC 20555–0001. Comments may be submitted electronically at *nrcrep@nrc.gov.*

The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) reference staff at (800) 397–4209, or (301) 415–4737, or by e-mail to *pdr@nrc.gov.*

Copies of comments received by NRC may be examined at the NRC Public Document Room, 11555 Rockville Pike, Public File Area O–1–F21, Rockville, Maryland. Copies of the request for an Agreement by the Governor of Minnesota including all information and documentation submitted in support of the request, and copies of the full text of the NRC Draft Staff Assessment are also available for public inspection in the NRC's Public Document Room—ADAMS Accession Numbers: ML041960496, ML041960499, ML052440344, ML050130375, ML050140452, ML051330043, ML051740384, ML051650073, ML052200424, and ML053060372.

FOR FURTHER INFORMATION CONTACT: Cardelia Maupin, Office of State and Tribal Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone (301) 415–3340 or e-mail *CHM1@nrc.gov.*

SUPPLEMENTARY INFORMATION: Since section 274 of the Act was added in 1959, the Commission has entered into Agreements with 33 States. The Agreement States currently regulate approximately 17,200 agreement material licenses, while NRC regulates approximately 4,700 licenses. Under the proposed Agreement, approximately 167 NRC licenses will transfer to Minnesota. NRC periodically reviews the performance of the Agreement States to assure compliance with the provisions of section 274.

Section 274e requires that the terms of the proposed Agreement be published in the **Federal Register** for public comment once each week for four consecutive weeks. This Notice is being published in fulfillment of the requirement.

I. Background

(a) Section 274d of the Act provides the mechanism for a State to assume regulatory authority, from the NRC, over certain radioactive materials [1] and activities that involve use of the materials.

In a letter dated July 6, 2004, Governor Pawlenty certified that the State of Minnesota has a program for the control of radiation hazards that is adequate to protect public health and safety within Minnesota for the materials and activities specified in the proposed Agreement, and that the State desires to assume regulatory responsibility for these materials and activities. Included with the letter was the text of the proposed Agreement, which is shown in Appendix A to this Notice.

The radioactive materials and activities (which together are usually referred to as the ''categories of materials'') which the State of Minnesota requests authority over are: (1) The possession and use of byproduct materials as defined in section 11e.(1) of the Act; (2) the possession and use of source materials; and (3) the possession and use of special nuclear materials in quantities not sufficient to form a critical mass, as provided for in regulations or orders of the Commission.

(b) The proposed Agreement contains articles that:

—Specify the materials and activities over which NRC's authority is discontinued and transferred;

—Specify the activities over which the Commission will retain regulatory authority;

[1] The radioactive materials are: (a) Byproduct materials as defined in section 11e.(1) of the Act; (b) byproduct materials as defined in section 11e.(2) of the Act; (c) source materials as defined in section 11z. of the Act; and (d) special nuclear materials as defined in section 11aa. of the Act, restricted to quantities not sufficient to form a critical mass.

—Continue the authority of the Commission to safeguard nuclear materials and restricted data;
—Commit the State of Minnesota and NRC to exchange information as necessary to maintain coordinated and compatible programs;
—Provide for the reciprocal recognition of licenses;
—Provide for the amendment, suspension or termination of the Agreement; and
—Specify the effective date of the proposed Agreement.

The Commission reserves the option to modify the terms of the proposed Agreement in response to comments, to correct errors, and to make editorial changes. The final text of the Agreement, with the effective date, will be published after the Agreement is approved by the Commission, and signed by the Chairman of the Commission and the Governor of Minnesota.

(c) Minnesota currently registers users of naturally-occurring and accelerator-produced radioactive materials. Authority for Minnesota's radiation control unit and proposed Agreement State activities is primarily found in Minnesota Statutes, sections 144.12–144.121, and in the Minnesota Rules Chapter 4731. Section 144.1202 provides the authority for the Governor to enter into an Agreement with the Commission and contains provisions for the orderly transfer of regulatory authority over affected licensees from NRC to the State. After the effective date of the Agreement, licenses issued by NRC would continue in effect as Minnesota licenses until the licenses expire or are replaced by State-issued licenses.

(d) The NRC Draft Staff Assessment finds that the Minnesota Program is adequate to protect public health and safety, and is compatible with the NRC program for the regulation of agreement materials.

II. Summary of the NRC Draft Staff Assessment of the Minnesota Program for the Control of Agreement Materials

NRC staff has examined the Minnesota request for an Agreement with respect to the ability of the Minnesota radiation control program to regulate agreement materials. The examination was based on the Commission's policy statement ''Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement'' (referred to herein as the ''NRC criteria''), published on January 23, 1981 (46 FR 7540), as amended by policy statements published on July 16, 1981 (46 FR 36969), and on July 21, 1983 (48 FR 33376).

(a) *Organization and Personnel.* The agreement materials program will be located within the existing Environmental Health Division (Program) of the Minnesota Department of Health (MDH). The Program will be responsible for implementation of all regulatory activities related to the proposed Agreement.

The educational requirements for the Program staff members are specified in the Minnesota State personnel position descriptions, and meet the NRC criteria with respect to formal education or combined education and experience requirements. All current staff members hold at least bachelor's degrees in physical or life sciences, or have a combination of education and experience at least equivalent to a bachelor's degree. Several staff members hold advanced degrees, and all staff members have had additional training plus working experience in radiation protection. The Program supervisor has more than 20 years work experience in radiation protection.

The Program performed, and NRC staff reviewed, an analysis of the expected Program workload under the proposed Agreement. Based on the NRC staff review of the State's staff analysis, Minnesota has an adequate number of staff to regulate radioactive materials under the terms of the Agreement. The Program will employ a staff of 3.5 full-time professional/technical and administrative employees for the agreement materials program. The distribution of the qualifications of the individual staff members will be balanced to the distribution of categories of licensees transferred from NRC.

(b) *Legislation and Regulations.* The MDH is designated by law in section 144.1202 of the Minnesota Statutes to be the radiation control agency. The law provides the MDH the authority to issue licenses, issue orders, conduct inspections, and to enforce compliance with regulations, license conditions, and orders. Licensees are required to provide access to inspectors. The MDH is authorized to promulgate regulations.

The State's regulations are found in Minnesota Rules Chapter 4731 effective June 2004. The NRC staff reviewed and forwarded comments on these regulations to the Minnesota staff. The NRC staff review verified that, with the comments incorporated, the Minnesota rules, and with the addition of legally binding requirements to incorporate recent changes to 10 CFR part 35 and 71 contain all of the provisions that are necessary in order to be compatible with the regulations of the NRC on the effective date of the Agreement between the State and the Commission. The MDH has extended the effect of the rules, where appropriate, to apply to naturally-occurring or accelerator-produced radioactive materials (NARM), in addition to agreement materials. The NRC staff is satisfied that the Minnesota Program, will not regulate in areas reserved to the NRC in matters concerning or affecting the proposed Agreement.

(c) *Storage and Disposal.* Minnesota has also adopted NRC compatible requirements for the handling and storage of radioactive material. Minnesota will not seek authority to regulate the land disposal of radioactive material as waste. The Minnesota waste disposal requirements cover the preparation, classification and manifesting of radioactive waste, generated by Minnesota licensees, for transfer for disposal to an authorized waste disposal site or broker.

(d) *Transportation of Radioactive Material.* Minnesota has adopted regulations compatible with NRC regulations in 10 CFR part 71. Part 71 contains the requirements that licensees must follow when preparing packages containing radioactive material for transport. Part 71 also contains requirements related to the licensing of packaging for use in transporting radioactive materials.

(e) *Recordkeeping and Incident Reporting.* Minnesota has adopted the sections compatible with the NRC regulations which specify requirements for licensees to keep records, and to report incidents, accidents, or events involving materials.

(f) *Evaluation of License Applications.* Minnesota has adopted regulations compatible with the NRC regulations that specify the requirements which a person must meet in order to get a license to possess or use radioactive materials. Minnesota has also developed a licensing procedures manual, along with the accompanying regulatory guides, which are adapted from similar NRC documents and contain guidance for the Program staff when evaluating license applications.

(g) *Inspections and Enforcement.* The Minnesota radiation control program has adopted a schedule providing for the inspection of licensees as frequently as the inspection schedule used by NRC. The Program has adopted procedures for the conduct of inspections, the reporting of inspection findings, and the reporting of inspection results to the licensees. The Program has also adopted, by rule based on the Minnesota Statutes,

procedures for the enforcement of regulatory requirements.

(h) *Regulatory Administration.* The MDH is bound by requirements specified in State law for rulemaking, issuing licenses, and taking enforcement actions. The Program has also adopted administrative procedures to assure fair and impartial treatment of license applicants. Minnesota law prescribes standards of ethical conduct for State employees.

(i) *Cooperation with Other Agencies.* Minnesota law deems the holder of an NRC license on the effective date of the proposed Agreement to possess a like license issued by Minnesota. The law provides that these former NRC licenses will expire on the date of expiration specified in the NRC license.

Minnesota also provides for ''timely renewal.'' This provision affords the continuance of licenses for which an application for renewal has been filed more than 30 days prior to the date of expiration of the license. NRC licenses transferred while in timely renewal are included under the continuation provision. Minnesota Rules Chapter 4731 provides exemptions from the State's requirements for licensing of sources of radiation for NRC and U.S. Department of Energy contractors or subcontractors. The proposed Agreement commits Minnesota to use its best efforts to cooperate with the NRC and the other Agreement States in the formulation of standards and regulatory programs for the protection against hazards of radiation and to assure that the Minnesota Program will continue to be compatible with the NRC's program for the regulation of agreement materials. The proposed Agreement stipulates the desirability of reciprocal recognition of licenses, and commits the Commission and Minnesota to use their best efforts to accord such reciprocity.

III. Staff Conclusion

Subsection 274d of the Act provides that the Commission shall enter into an agreement under Subsection 274b with any State if:

(a) The Governor of the State certifies that the State has a program for the control of radiation hazards adequate to protect public health and safety with respect to the agreement materials within the State, and that the State desires to assume regulatory responsibility for the agreement materials; and

(b) The Commission finds that the State program is in accordance with the requirements of Subsection 274o, and in all other respects compatible with the NRC's program for the regulation of materials, and that the State program is adequate to protect public health and safety with respect to the materials covered by the proposed Agreement.

On the basis of its Draft Staff Assessment, the NRC staff concludes that the State of Minnesota meets the requirements of the Act. The State's program, as defined by its statutes, regulations, personnel, licensing, inspection, and administrative procedures, is compatible with the program of the NRC and adequate to protect public health and safety with respect to the materials covered by the proposed Agreement. NRC will continue the formal processing of the proposed Agreement which includes publication of this Notice once a week for four consecutive weeks for public review and comment.

Dated at Rockville, Maryland, this 7th day of November, 2005.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Appendix A—An Agreement between the United States Nuclear Regulatory Commission and the State of Minnesota for the Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

Whereas, The United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) is authorized under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and section 161 of the Act with respect to byproduct materials as defined in sections 11e.(1) and (2) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and,

Whereas, The Governor of the State of Minnesota is authorized under § 144.1202, Subdivision 1, Minnesota Statutes, to enter into this Agreement with the Commission; and,

Whereas, The Governor of the State of Minnesota certified on July 6, 2004, that the State of Minnesota (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and,

Whereas, The Commission found on [date] that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect public health and safety; and,

Whereas, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and,

Whereas, The Commission and the State recognize the desirability of the reciprocal recognition of licenses, and of the granting of limited exemptions from licensing of those materials subject to this Agreement; and,

Whereas, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, It is hereby agreed between the Commission and the Governor of the State acting in behalf of the State as follows:

Article I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and section 161 of the Act with respect to the following materials:

A. Byproduct materials as defined in section 11e.(1) of the Act;

B. Source materials;

C. Special nuclear materials in quantities not sufficient to form a critical mass.

Article II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to:

A. The regulation of the construction and operation of any production or utilization facility or any uranium enrichment facility;

B. The regulation of the export from or import into the United States of byproduct, source, or special nuclear materials, or of any production or utilization facility;

C. The regulation of the disposal into the ocean or sea of byproduct, source, or special nuclear materials waste as defined in the regulations or orders of the Commission;

D. The regulation of the disposal of such other byproduct, source, or special

nuclear materials as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed without a license from the Commission;

E. The evaluation of radiation safety information on sealed sources or devices containing byproduct, source, or special nuclear materials and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission.

F. The regulation of the land disposal of by-product, source, or special nuclear materials waste received from other persons;

G. The extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material.

Article III

With the exception of those activities identified in Article II, paragraphs A through D, this Agreement may be amended, upon application by the State and approval by the Commission, to include one or more of the additional activities specified in Article II, paragraphs E, F, and G, whereby the State may then exert regulatory authority and responsibility with respect to those activities.

Article IV

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear materials shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

Article V

This Agreement shall not affect the authority of the Commission under subsection 161b or 161i of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data, or to guard against the loss or diversion of special nuclear materials.

Article VI

The Commission will cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that Commission and State programs for protection against hazards of radiation will be coordinated and compatible. The State agrees to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of materials covered by this Agreement.

The State and the Commission agree to keep each other informed of proposed changes in their respective rules and regulations, and to provide each other the opportunity for early and substantive contribution to the proposed changes.

The State and the Commission agree to keep each other informed of events, accidents, and licensee performance that may have generic implication or otherwise be of regulatory interest.

Article VII

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any other Agreement State. Accordingly, the Commission and the State agree to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect public health and safety, or (2) the State has not complied with one or more of the requirements of section 274 of the Act. The Commission may also, pursuant to section 274j of the Act, temporarily suspend all or part of this Agreement if, in the judgment of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the State has failed to take necessary steps. The Commission shall periodically review actions taken by the State under this Agreement to ensure compliance with section 274 of the Act which requires a State program to be adequate to protect public health and safety with respect to the materials covered by this Agreement and to be compatible with the Commission's program.

Article IX

This Agreement shall become effective on [date], and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at [City, State] this [date] day of [month], [year].

For the United States Nuclear Regulatory Commission.

Nils J. Diaz,
Chairman.

For the State of Minnesota.

Tim Pawlenty,
Governor.

[FR Doc. 05–22580 Filed 11–15–05; 8:45 am]
BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of an Expiring Information Collection Form: OPM–1386B

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of an expiring information collection form. OPM–1386B, Applicant Race and National Origin Questionnaire, is used to gather information concerning the race and national origin of applicants for employment under the Outstanding Scholar provision of the Luevano Consent Decree, 93 F.R.D. 68 (1981).

New standards for collecting race and ethnicity are defined in the **Federal Register** notice, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity,'' 62 FR 58782 (1997). The standards change the classification of Federal data on race and ethnicity contained in OMB Directive 15, Race and Ethnic Standards for Federal Statistics and Administrative Reporting. This classification provides a minimum standard for maintaining, collecting, and presenting data on race and ethnicity. The standards have five categories for race and two categories for ethnicity. They also allow individuals to select more than one race, based on self-identification.

Approximately 100,000 OPM–1386B forms are completed annually. Each form takes approximately 5 minutes to complete. The annual estimated burden is 8,333 hours.

Comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on respondents, through the use of appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey by telephone (202) 606–8358, or by e-mail *MaryBeth.Smith-Toomey@opm.gov*.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to: Daniel Fusco, Manager, Recruiting, Examining and Assessment Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6500, Washington, DC 20415.

U.S. Office of Personnel Management.

Linda M. Springer,

Director.

[FR Doc. 05–22741 Filed 11–15–05; 8:45 am]

BILLING CODE 6325–39–P

RAILROAD RETIREMENT BOARD

2006 Railroad Experience Rating Proclamations, Monthly Compensation Base and Other Determinations

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: Pursuant to section 8(c)(2) and section 12(r)(3) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(2) and 45 U.S.C. 362(r)(3), respectively), the Board gives notice of the following:

1. The balance to the credit of the Railroad Unemployment Insurance (RUI) Account, as of June 30, 2005, is $113,140,562.89;

2. The September 30, 2005, balance of any new loans to the RUI Account, including accrued interest, is zero;

3. The system compensation base is $3,174,496,243.69 as of June 30, 2005;

4. The cumulative system unallocated charge balance is ($269,505,519.27) as of June 30, 2005;

5. The pooled credit ratio for calendar year 2006 is zero;

6. The pooled charged ratio for calendar year 2006 is zero;

7. The surcharge rate for calendar year 2006 is 1.5 percent;

8. The monthly compensation base under section 1(i) of the Act is $1,195 for months in calendar year 2006;

9. The amount described in section 1(k) of the Act as ''2.5 times the monthly compensation base'' is $2,987.50 for base year (calendar year) 2006;

10. The amount described in section 2(c) of the Act as ''an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600'' is $1,544 for months in calendar year 2006;

11. The amount described in section 3 of the Act as ''2.5 times the monthly compensation base'' is $2,987.50 for base year (calendar year) 2006;

12. The amount described in section 4(a–2)(i)(A) of the Act as ''2.5 times the monthly compensation base'' is $2,987.50 with respect to disqualifications ending in calendar year 2006;

13. The maximum daily benefit rate under section 2(a)(3) of the Act is $57 with respect to days of unemployment and days of sickness in registration periods beginning after June 30, 2006.

DATES: The balance in notice (1) and the determinations made in notices (3) through (7) are based on data as of June 30, 2005. The balance in notice (2) is based on data as of September 30, 2005. The determinations made in notices (5) through (7) apply to the calculation, under section 8(a)(1)(C) of the Act, of employer contribution rates for 2006. The determinations made in notices (8) through (12) are effective January 1, 2006. The determination made in notice (13) is effective for registration periods beginning after June 30, 2006.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Marla L. Huddleston, Bureau of the Actuary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092, telephone (312) 751–4779.

SUPPLEMENTARY INFORMATION: The RRB is required by section 8(c)(1) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(1)) as amended by Public Law 100–647, to proclaim by October 15 of each year certain system-wide factors used in calculating experience-based employer contribution rates for the following year. The RRB is further required by section 8(c)(2) of the Act (45 U.S.C. 358(c)(2)) to publish the amounts so determined and proclaimed. The RRB is required by section 12(r)(3) of the Act (45 U.S.C. 362(r)(3)) to publish by December 11, 2005, the computation of the calendar year 2006 monthly compensation base (section 1(i) of the Act) and amounts described in sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act which are related to changes in the monthly compensation base. Also, the RRB is required to publish, by June 11, 2006, the maximum daily benefit rate under section 2(a)(3) of the Act for days of unemployment and days of sickness in registration periods beginning after June 30, 2006.

Surcharge Rate

A surcharge is added in the calculation of each employer's contribution rate, subject to the applicable maximum rate, for a calendar year whenever the balance to the credit of the RUI Account on the preceding June 30 is less than the greater of $100 million or the amount that bears the same ratio to $100 million as the system compensation base for that June 30 bears to the system compensation base as of June 30, 1991. If the RUI Account balance is less than $100 million (as indexed), but at least $50 million (as indexed), the surcharge will be 1.5 percent. If the RUI Account balance is less than $50 million (as indexed), but greater than zero, the surcharge will be 2.5 percent. The maximum surcharge of 3.5 percent applies if the RUI Account balance is less than zero.

The system compensation base as of June 30, 1991 was $2,763,287,237.04. The system compensation base for June 30, 2005 was $3,174,496,243.69. The ratio of $3,174,496,243.69 to $2,763,287,237.04 is 1.14881153. Multiplying 1.14881153 by $100 million yields $114,881,153. Multiplying $50 million by 1.14881153 produces $57,440,577. The Account balance on June 30, 2005, was $113,140,562.89. Accordingly, the surcharge rate for calendar year 2006 is 1.5 percent.

Monthly Compensation Base

For years after 1988, section 1(i) of the Act contains a formula for determining the monthly compensation base. Under the prescribed formula, the monthly compensation base increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The monthly compensation base for months in calendar year 2006 shall be equal to the greater of (a) $600 or (b) $600 [1 + {(A − 37,800)/56,700}], where A equals the amount of the applicable base with respect to tier 1 taxes for 2006 under section 3231(e)(2) of the Internal Revenue Code of 1986. Section 1(i) further provides that if the amount so determined is not a multiple of $5, it shall be rounded to the nearest multiple of $5.

The calendar year 2006 tier 1 tax base is $94,200. Subtracting $37,800 from $94,200 produces $56,400. Dividing $56,400 by $56,700 yields a ratio of 0.99470899. Adding one gives 1.99470899. Multiplying $600 by the amount 1.99470899 produces the amount of $1,196.83, which must then be rounded to $1,195. Accordingly, the monthly compensation base is determined to be $1,195 for months in calendar year 2006.

Amounts Related to Changes in Monthly Compensation Base

For years after 1988, sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act contain formulas for determining amounts related to the monthly compensation base.

Under section 1(k), remuneration earned from employment covered under the Act cannot be considered subsidiary remuneration if the employee's base year compensation is less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 2006 monthly compensation base of $1,195 produces $2,987.50. Accordingly, the amount determined under section 1(k) is $2,987.50 for calendar year 2006.

Under section 2(c), the maximum amount of normal benefits paid for days of unemployment within a benefit year and the maximum amount of normal benefits paid for days of sickness within a benefit year shall not exceed an employee's compensation in the base year. In determining an employee's base year compensation, any money remuneration in a month not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year bears to $600 shall be taken into account.

The calendar year 2006 monthly compensation base is $1,195. The ratio of $1,195 to $600 is 1.99166667. Multiplying 1.99166667 by $775 produces $1,544. Accordingly, the amount determined under section 2(c) is $1,544 for months in calendar year 2006.

Under section 3, an employee shall be a ''qualified employee'' if his/her base year compensation is not less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 2006 monthly compensation base of $1,195 produces $2,987.50. Accordingly, the amount determined under section 3 is $2,987.50 for calendar year 2006.

Under section 4(a–2)(i)(A), an employee who leaves work voluntarily without good cause is disqualified from receiving unemployment benefits until he has been paid compensation of not less than 2.5 times the monthly compensation base for months in the calendar year in which the disqualification ends. Multiplying 2.5 by the calendar year 2006 monthly compensation base of $1,195 produces $2,987.50. Accordingly, the amount determined under section 4(a–2)(i)(A) is $2,987.50 for calendar year 2006.

Maximum Daily Benefit Rate

Section 2(a)(3) contains a formula for determining the maximum daily benefit rate for registration periods beginning after June 30, 1989, and after each June 30 thereafter. Legislation enacted on October 9, 1996, revised the formula for indexing maximum daily benefit rates. Under the prescribed formula, the maximum daily benefit rate increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The maximum daily benefit rate for registration periods beginning after June 30, 2006, shall be equal to 5 percent of the monthly compensation base for the base year immediately preceding the beginning of the benefit year. Section 2(a)(3) further provides that if the amount so computed is not a multiple of $1, it shall be rounded down to the nearest multiple of $1.

The calendar year 2005 monthly compensation base is $1,150. Multiplying $1,150 by 0.05 yields $57.50, which must then be rounded down to $57. Accordingly, the maximum daily benefit rate for days of unemployment and days of sickness beginning in registration periods after June 30, 2006, is determined to be $57.

Dated: November 8, 2005.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 05–22724 Filed 11–15–05; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 52753/November 9, 2005]

Securities Exchange Act of 1934; Order Regarding Alternative Net Capital Computation for Lehman Brothers Inc., Which Has Elected To Be Supervised on a Consolidated Basis

Lehman Brothers Inc. (''LB''), a broker-dealer registered with the Securities and Exchange Commission (''Commission''), and its ultimate holding company, Lehman Brothers Holdings Inc. (''LBHI''), have indicated their desire to be supervised by the Commission as a consolidated supervised entity (''CSE''). LB, therefore, has submitted an application to the Commission for authorization to use the alternative method of computing net capital contained in Appendix E to Rule 15c3–1 (17 CFR 240.15c3–1e) to the Securities Exchange Act of 1934 (''Exchange Act'').

Based on a review of the application that LB submitted, the Commission has determined that the application meets the requirements of Appendix E. The Commission also has determined that LBHI is in compliance with the terms of its undertakings, as provided to the Commission under Appendix E. The Commission, therefore, finds that approval of the application is necessary or appropriate in the public interest or for the protection of investors.

Accordingly,

It is ordered, under paragraph (a)(7) of Rule 15c3–1 (17 CFR 240.15c3–1) to the Exchange Act, that LB may calculate net capital using the market risk standards of Appendix E to compute a deduction for market risk on some or all of its positions, instead of the provisions of paragraphs (c)(2)(vi) and (c)(2)(vii) of Rule 15c3–1, and using the credit risk standards of Appendix E to compute a deduction for credit risk on certain credit exposures arising from transactions in derivatives instruments, instead of the provision of paragraph (c)(2)(iv) of Rule 15c3–1.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6327 Filed 11–15–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52752; File No. SR–NASD–2004–044]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change and Amendments Nos. 1 and 2 Thereto Relating to Short Sale Delivery Requirements

November 8, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] thnsp; and Rule 19b–4 thereunder,[2] notice is hereby given that on March 10, 2005, the National Association of Securities Dealers, Inc.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. On October 6, 2005, NASD filed Amendment No. 1 to the proposed rule change.[3] On October 28, 2005, NASD filed Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing new Rule 3210 to require participants [5] of registered clearing agencies [6] (referred to herein as ''clearing agency participants'') to take action on failures to deliver that exist for 13 consecutive settlement days in certain specified securities. In addition, if the fail to deliver position is not closed out in the requisite time period, a clearing agency participant or any broker-dealer for which it clears transactions would be prohibited from effecting further short sales in the particular specified security without borrowing, or entering into a bona-fide arrangement to borrow, the security until the fail to deliver position is closed out.

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

3210. [Reserved.] *Short Sale Delivery Requirements*

(a) If a participant of a registered clearing agency has a fail to deliver position at a registered clearing agency in a non-reporting threshold security for 13 consecutive settlement days, the participant shall immediately thereafter close out the fail to deliver position by purchasing securities of like kind and quantity.

(b) The provisions of this rule shall not apply to the amount of the fail to deliver position that the participant of a registered clearing agency had at a registered clearing agency on the settlement day immediately preceding the day that the security became a non-reporting threshold security; provided, however, that if the fail to deliver position at the clearing agency is subsequently reduced below the fail to deliver position on the settlement day immediately preceding the day that the security became a non-reporting threshold security, then the fail to deliver position excepted by this paragraph (b)(1) shall be the lesser amount.

(c) If a participant of a registered clearing agency has a fail to deliver position at a registered clearing agency in a non-reporting threshold security for 13 consecutive settlement days, the participant and any broker or dealer for which it clears transactions, including any market maker that would otherwise be entitled to rely on the exception provided in paragraph (b)(2)(iii) of SEC Rule 203 of Regulation SHO, may not accept a short sale order in the non-reporting threshold security from another person, or effect a short sale in the non-reporting threshold security for its own account, without borrowing the security or entering into a bona-fide arrangement to borrow the security, until the participant closes out the fail to deliver position by purchasing securities of like kind and quantity.

(d) If a participant of a registered clearing agency reasonably allocates a portion of a fail to deliver position to another registered broker or dealer for which it clears trades or for which it is responsible for settlement, based on such broker or dealer's short position, then the provisions of this rule relating to such fail to deliver position shall apply to the portion of such registered broker or dealer that was allocated the fail to deliver position, and not to the participant.

(e) A participant of a registered clearing agency shall not be deemed to have fulfilled the requirements of this rule where the participant enters into an arrangement with another person to purchase securities as required by this rule, and the participant knows or has reason to know that the other person will not deliver securities in settlement of the purchase.

(f) For the purposes of this rule, the following terms shall have the meanings below:

(1) the term ''market maker'' has the same meaning as in section 3(a)(38) of the Exchange Act.

(2) the term ''non-reporting threshold security'' means any equity security of an issuer that is not registered pursuant to section 12 of the Exchange Act and for which the issuer is not required to file reports pursuant to section 15(d) of the Exchange Act:

(A) for which there is an aggregate fail to deliver position for five consecutive settlement days at a registered clearing agency of 10,000 shares or more and for which on each settlement day during the five consecutive settlement day period, the reported last sale during normal market hours for the security on that settlement day that would value the aggregate fail to deliver position at $50,000 or more, provided that if there is no reported last sale on a particular settlement day, then the price used to value the position on such settlement day would be the previously reported last sale; and

(B) is included on a list published by NASD.

A security shall cease to be a non-reporting threshold security if the aggregate fail to deliver position at a registered clearing agency does not meet or exceed either of the threshold tests specified in paragraph (f)(2)(A) of this rule for five consecutive settlement days.

(3) the term ''participant'' means a participant as defined in section 3(a)(24) of the Exchange Act, that is an NASD member.

(4) the term ''registered clearing agency'' means a clearing agency, as defined in section 3(a)(23)(A) of the Exchange Act, that is registered with the Commission pursuant to section 17A of the Exchange Act.

(5) the term ''settlement day'' means any business day on which deliveries of securities and payments of money may be made through the facilities of a registered clearing agency.

(g) Pursuant to the Rule 9600 Series, the staff, for good cause shown after taking into consideration all relevant factors, may grant an exemption from the provisions of this rule, either unconditionally or on specified terms and conditions, to any transaction or class of transactions, or to any security or class of securities, or to any person or class of persons, if such exemption is consistent with the protection of investors and the public interest.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified

[3] On account of the adoption of Regulation SHO, Amendment No. 1 to SR–NASD–2004–044, among other things, narrows the scope of the proposed rule change to those equity securities not otherwise covered by the delivery requirements of Rule 203(b) of Regulation SHO.

[4] Amendment No. 2 to SR–NASD–2004–044, which replaces and supersedes Amendment No. 1, makes technical changes to the proposed rule change.

[5] *See* Section 3(a)(24) of the Act.

[6] A ''registered clearing agency'' is a clearing agency, as defined in Section 3(a)(23)(A) of the Act, that is registered with the SEC pursuant to Section 17A of the Act.

in Item IV below. NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule Filing History

On March 10, 2004, NASD filed with the Commission proposed rule change SR–NASD–2004–044, proposing amendments relating to short sale delivery requirements in all classes of equity securities. Given the SEC's adoption of Regulation SHO under the Act, which imposes delivery requirements related to short selling activities, on October 6, 2005, NASD filed Amendment No. 1 to SR–NASD–2004–044 to, among other things, narrow the scope of its proposal to those equity securities not otherwise covered by the delivery requirements of Rule 203 of Regulation SHO.[7] NASD filed Amendment No. 2 to SR–NASD–2004–044 (''Amendment No. 2'') to make certain technical changes. Amendment No. 2 replaces and supersedes in its entirety the filing made on October 6, 2005.

Background

On June 23, 2004, the SEC adopted Regulation SHO under the Act, which provides a new regulatory framework governing the short selling of equity securities.[8] Regulation SHO includes several new provisions relating to short sales, one of which imposes delivery requirements on clearing agency participants for certain securities that have a substantial level of failures to deliver. Specifically, Rule 203(b)(3) of Regulation SHO requires clearing agency participants to close out all failures to deliver in a ''threshold security,'' as defined in Regulation SHO, that have existed for thirteen consecutive settlement days. Regulation SHO defines a ''threshold security'' as any equity security of an issuer that is registered under Section 12 of the Act or that is required to file reports under Section 15(d) of the Act (commonly referred to as ''reporting securities'') that (1) for five consecutive settlement days has had aggregate fails to deliver at a registered clearing agency of 10,000 shares or more; (2) the level of fails is equal to at least one-half of one percent of the issue's total shares outstanding (''TSO''); and (3) is included on a list published by a self-regulatory organization.

If the fail to deliver is not closed out in the requisite time period, the clearing agency participant and any broker-dealer for which it clears transactions, including market makers, are prohibited from effecting further short sales in the particular threshold security without borrowing, or entering into a bona-fide arrangement to borrow, the security until the fail to deliver position is closed out. To the extent that the participant can identify the broker-dealer(s) that have contributed to the fail to deliver position, the requirement to borrow or arrange to borrow prior to effecting further short sales should apply only to those particular broker-dealers.

Description of Proposed Rule Change

As noted above, the Regulation SHO delivery requirements apply only to reporting securities. NASD staff believes applying delivery requirements to non-reporting securities is an important step in reducing long-term fails to deliver in this sector of the marketplace.

Accordingly, NASD is proposing new Rule 3210, which would apply a delivery framework to non-reporting OTC equity securities substantially similar to that described above. Under the proposal, a non-reporting security that, for five consecutive settlement dates, has: (1) A failure to deliver equal to or greater than 10,000 shares; and (2) a reported last sale during normal market hours (9:30 a.m. to 4 p.m., Eastern Time (ET)) for the security on that settlement day that would value the aggregate fail to deliver position at $50,000 or more; would be deemed a non-reporting threshold security and thus, subject to the delivery requirements proposed herein. In the event there is no reported last sale on any settlement day during such five-day period, the aggregate fail position would be valued based on the previously reported last sale.

In the Regulation SHO Adopting Release, the SEC indicated that it did not apply the Regulation SHO delivery framework to non-reporting securities because of the difficulties in capturing TSO information for those securities to determine whether they met the Regulation SHO threshold requirements.[9] NASD believes that under the proposed rule change described herein, the lack of TSO information for non-reporting securities would not be an issue, given that the only calculations necessary would be whether the failure to deliver position is equal to or greater than 10,000 shares and whether the failure to deliver position meets the dollar threshold test specified above.[10]

NASD will publish a list daily of the non-reporting securities that meet the threshold requirements under proposed Rule 3210. To be removed from the list, a security must not meet or exceed either of the threshold tests described above for five consecutive settlement days.

NASD believes that, as discussed previously, the proposed rule change would apply a delivery framework substantially similar to Regulation SHO to non-reporting securities. As such, NASD intends to apply and interpret these proposed requirements consistent with the SEC's application and interpretation of Regulation SHO, and to the extent there are subsequent amendments to Regulation SHO, NASD will consider amending its requirements accordingly.

Among other issues relating to the filing, NASD is seeking comment on the proposed threshold tests for non-reporting OTC equity securities described above. Specifically, NASD is seeking comment on whether the proposed thresholds are an accurate indicator of non-reporting OTC equity securities with excessive fails to deliver, including but not limited to, whether the $50,000 aggregate fail to deliver position is the appropriate dollar threshold and whether the 10,000 shares or greater failure to deliver threshold is the appropriate share threshold, given the trading characteristics in this sector of the marketplace.

[7] On November 30, 2004, NASD filed for immediate effectiveness a rule change that repealed, among others, Rule 3210 and Rule 11830 in light of the requirements of the SEC's new short sale regulation, Regulation SHO under the Act. *See* Exchange Act Release No. 50822 (December 8, 2004), 69 FR 74554 (December 14, 2004) (File No. SR–NASD–2004–175). Therefore, deletion of those rules as part of this filing is no longer necessary.

[8] *See* Exchange Act Release No. 50103 (July 28, 2004), 69 FR 48008 (August 6, 2004) (''Regulation SHO Adopting Release'').

[9] *See id.* Footnote 82.

[10] According to the NASD, similar to the rationale behind the Regulation SHO threshold test relative to TSO, NASD has proposed the dollar threshold test to ensure that the non-reporting threshold security list is not overly broad or impracticable. NASD is concerned that having a security on the non-reporting threshold security list solely based on whether the failure to deliver position is equal to or greater than 10,000 shares may not represent a significant failure to deliver position relative to the price of the security, particularly given that many non-reporting securities trade at less than $1.00. As noted in the Regulation SHO Adopting Release, there may be many different causes of fails to deliver that could be unrelated to a market participant engaging in naked short selling. *See* Regulation SHO Adopting Release. Thus, NASD staff believes that imposing too low of a threshold may be an overly broad method of addressing any potential abuses and also could disrupt the efficient functioning of the Continuous Net Settlement system operated by the National Securities Clearing Corporation.

NASD will announce the effective date of the proposed rule change in a *Notice to Members* to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the *Notice to Members* announcing Commission approval.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[11] which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will reduce significant, long-term fails to deliver in the marketplace.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

The Commission notes that in Section 3210(b) of the proposed rule, consistent with the application of Regulation SHO, the NASD excludes from the close out requirement of Section 3210(a) of the proposed rule the amount of the fail to deliver position that the participant of a registered clearing agency had at a registered clearing agency on the settlement day immediately preceding the day that the security became a non-reporting threshold security. The Commission specifically requests comment on this aspect of proposed Rule 3210.

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2004–044 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NASD–2004–044. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR–NASD–2004–044 and should be submitted on or before December 7, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6306 Filed 11–15–05; 8:45 am]

BILLING CODE 8010–01–P

[11] 15 U.S.C. 78o–3(b)(6).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52760; File No. SR–NYSE–2005–75]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to Section 802.01E of the Listed Company Manual

November 10, 2005.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on October 26, 2005, the New York Stock Exchange, Inc. (''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule filing reflects amendments to the Listed Company Manual procedures applicable to companies that fail to file in a timely manner their annual report required by the Act. The text of the proposed rule change is set forth below. Additions are in italics and deletions are in brackets.

Listed Company Manual

* * * * *

802.00 Continued Listing Criteria

* * * * *

802.01E SEC Annual Report Timely Filing Criteria

A company that fails to file its annual report (Forms 10–K, 10–KSB, 20–F, 40–F or N–CSR) with the SEC in a timely manner will be subject to the following procedures: Once the Exchange identifies that a company has failed to file a timely periodic annual report with the SEC by the later of (a) the date that

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

the annual report was required to be filed with the SEC by the applicable form or (b) if a Form 12b–25 was timely filed with the SEC, the extended filing due date for the annual report, the Exchange will notify the company in writing of [its status] *the procedures set forth below*. For purposes of this [Para.] *Section* 802.01E, the later of these two dates will be referred to as the ''Filing Due Date.''

Within five days of receipt of this notification, the company will be required to (a) contact the Exchange to discuss the status of the annual report filing, and (b) [if it has not already done so,] issue a press release disclosing the status of the filing*, noting the delay, the reason for the delay and the anticipated filing date, if known*. If the company has not [fails to] issue*d* [this] *the required* press release [in a timely manner] *by the fifth day following receipt of this notification*, the Exchange will itself issue a press release stating that the company has failed to timely file its annual report with the SEC.

During the [nine] *six*-month period from the Filing Due Date, the Exchange will monitor the company and the status of the filing, including through contact with the company, until the annual report is filed. If the company fails to file the annual report within [nine] *six* months from the Filing Due Date, the Exchange may, in its sole discretion, allow the company's securities to be traded for up to an additional [three] *six*-month trading period depending on the company's specific circumstances. If the Exchange determines that an additional trading period of up to [three] *six* months is not appropriate, suspension and delisting procedures will commence in accordance with the procedures set out in [Para.] *Section* 804.00 of the Listed Company Manual. A company is not eligible to follow the procedures outlined in [Paras.] *Sections* 802.02 and 802.03 with respect to this criteria.

In determining whether an additional up to [three] *six*-month trading period is appropriate, the Exchange will consider the likelihood that the filing can be made during the additional period, as well as the company's general financial status, based on information provided by a variety of sources, including the company, its audit committee, its outside auditors, the staff of the SEC and any other regulatory body. The Exchange strongly encourages companies to provide ongoing disclosure on the status of the annual report filing to the market through press releases, and will also take the frequency and detail of such information into account in determining whether an additional [three] *six*-month trading period is appropriate.

If the Exchange determines that an additional up to [three] *six*-month trading period is appropriate and the company fails to file its periodic annual report by the end of the additional period, suspension and delisting procedures will*, subject to the provisions below,* commence in accordance with the procedures set out in [Para.] *Section* 804.00. *In certain unique circumstances, a listed company that is delayed in filing its annual report beyond the twelve-month period described above because its financial statements have not yet been completed may have a position in the market (relating to both the nature of its business and its very large publicly-held market capitalization) such that its delisting from the Exchange would be significantly contrary to the national interest and the interests of public investors. In such case, when the Exchange believes that the company remains suitable for listing given:*

1. Its continuing compliance with applicable quantitative and qualitative listing standards;

2. Its continued ability to meet current debt obligations and adequately finance operations;

3. Its progress, as reported to the Exchange, in completing its financial statements;

4. Whether it has been publicly transparent on its status, issuing press releases regarding its progress in completing its financial statements and providing other information regarding its financial status; and

5. The reasonable expectation that the company will be able to resume timely filings in the future,

the Exchange, in its sole discretion, may determine to allow the listed company to continue listing beyond the twelve-month period. The Exchange will advise the SEC of, and publish on the NYSE's website, any such determination.

The Exchange will reevaluate such determination once every three months. If the Exchange reaffirms its decision to allow trading to continue, the Exchange will advise the SEC of, and publish on the NYSE's website, that reaffirmation.

Note that, *regardless of the procedures described above,* if, at any time, the Exchange deems it necessary or appropriate in the public interest or for the protection of investors, trading in any security can be suspended immediately, and[,] *the Exchange will follow* [in accordance with] the procedures set out in [Para.] *Section* 804.00[, application made to the SEC] to delist the security.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in item IV below and is set forth in sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently approved section 802.01E of the NYSE's Listed Company Manual which codifies the Exchange's procedures relating to situations where companies fail to satisfy the Commission's filing requirements for annual reports on Forms 10–K, 10–KSB, 20–F, 40–F, or N–CSR in a timely manner.

Section 802.01E currently provides that if a company fails to timely file a periodic annual report with the SEC, the Exchange will monitor the company and the status of the filing. If the company fails to file the annual report within nine months from the filing due date, the Exchange may, in its sole discretion, allow the company's securities to be traded for up to an additional three-month trading period depending on the company's specific circumstances, but in any event if the company does not file its periodic annual report by the end of the one year period, the Exchange will begin suspension and delisting procedures in accordance with the procedures in section 804.00.

The Exchange believes that there are certain unique listed companies that have a position in the market (relating to both the nature of their business and their very large publicly-held market capitalization) such that their delisting from the Exchange would be significantly contrary to the national interest and the interests of public investors, notwithstanding a delay in an annual report filing that extended beyond one year.

The Exchange is, therefore, proposing to amend section 802.01E to provide that, for these certain unique companies that remain suitable for listing given their relative financial health and compliance with the NYSE's quantitative and qualitative listing standards, and with respect to which there is a reasonable expectation that the company will be able to resume timely filings in the future, the

Exchange may forebear, at its sole discretion, from commencing suspension and delisting, notwithstanding their failure to file within the time periods specified in section 802.01E. The Exchange will advise the SEC of, and publish on the NYSE's Web site, any such determination. In addition, the Exchange will reevaluate such determination once every three months and, if the Exchange reaffirms its decision to allow trading to continue, the Exchange will advise the SEC of, and publish on the NYSE's website, that reaffirmation.

In all such cases, Exchange staff will continue to hold regular discussions and meetings with the company's management, directors, regulators and advisors to monitor the status of the annual report filing, as well as the company's compliance with the NYSE's other qualitative and quantitative requirements, and to determine whether to allow the company to continue to trade despite the continued failure to file an annual report with the SEC. In addition, in order to provide investors with appropriate notice that companies have failed to file their annual reports with the SEC in a timely manner, the Exchange will continue to monitor and disseminate transparent information on the failure of such companies to file their annual report with the SEC, including through appending an ''.LF'' indicator in the financial status field of the company's ticker symbol and distributing that information via the low speed ticker and through our data stream to market data vendors.

The NYSE also maintains an up to date list of companies that are late in filing their annual reports with the SEC on our Web site at *http://www.nyse.com.* Additionally, each NYSE listed company has a unique data page on the site and, when applicable, this page indicates that the company is considered a late filer.

With respect to all companies subject to section 802.01E, the Exchange is also proposing to (i) shorten the initial monitoring period for companies that miss their Filing Due Date from nine to six months and (ii) lengthen from three to six months the additional period that the Exchange may grant companies prior to the commencement of suspension and delisting procedures. In addition, the Exchange is proposing minor amendments to section 802.01E to clarify the requirements regarding procedures for press releases relating to late filings.[4]

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under section 6(b)(5)[5] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NYSE consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2005–75 on the subject line.

Paper Comments

Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303. All submissions should refer to File Number SR–NYSE–2005–75. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro/shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2005–75 and should be submitted on or before December 7, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

[FR Doc. 05–22777 Filed 11–10–05; 4:38 pm]

BILLING CODE 8010–01–P

[4] The Commission notes that the Exchange is clarifying the type of information that must be included in the press release.

[5] 15 U.S.C. 78f(b)(5).

[6] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10245 and # 10246]

Indiana Disaster # IN–00002

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major

disaster for the State of Indiana (FEMA–1612–DR), dated 11/8/2005.

Incident: Tornado and Severe Storms.

Incident Period: 11/6/2005.

Effective Date: 11/8/2005.

Physical Loan Application Deadline Date: 1/9/2006.

EIDL Loan Application Deadline Date: 8/8/2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 11/8/2005, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Vanderburgh

Warrick

Contiguous Counties: Indiana

Dubois, Gibson, Pike, Posey, Spencer

Kentucky

Daviess, Henderson

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	5.375
Homeowners Without Credit Available Elsewhere	2.687
Businesses With Credit Available Elsewhere	6.557
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-profit Organizations) With Credit Available Elsewhere	4.750
Businesses and Non-profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10245C and for economic injury is 102460.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 05–22735 Filed 11–15–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Advisory Committee on Veterans Business Affairs; Public Meeting

The U.S. Small Business Administration (SBA), pursuant to the Veterans Entrepreneurship and Small Business Development Act of 1999 (Pub. L. 106–50), Advisory Committee on Veterans Business Affairs will host a second public meeting on November 15–17, 2005. The meeting will take place at the U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416. The meeting on Tuesday, November 15, 2005 and Wednesday, November 16, 2005 will start at 9 a.m. until 5 p.m., in the Eisenhower Conference Room, located on the 2nd floor. The meeting on Thursday, November 17, 2005 will start at 9 a.m. until noon, in the Administration's Conference Room, located on the 7th floor.

Anyone wishing to attend must contact Cheryl Clark in writing or by fax. Cheryl Clark, Program Liaison, Office of Veterans Business Development, 409 3rd Street, SW., Washington, DC 204165, phone (202) 205–6773), fax: (202) 481–6085, e-mail: *cheryl.clark@sba.gov.*

Matthew K. Becker,

Committee Management Officer.

[FR Doc. 05–22736 Filed 11–15–05; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5229]

Culturally Significant Objects Imported for Exhibition Determinations: ''Bellini and the East''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Bellini and the East,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreements with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Isabella Stewart Gardner Museum, Boston, MA from on or about December 15, 2005 to on or about March 26, 2006, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, Department of State, (telephone: 202/453–8048). The address is Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: November 7, 2005.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 05–22722 Filed 11–15–05; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 5228]

Bureau of Political-Military Affairs; Statutory Debarment Under the International Traffic in Arms Regulations

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has imposed statutory debarment pursuant to Section 127.7(c) of the International Traffic in Arms Regulations (''ITAR'') (22 CFR parts 120 to 130) on persons convicted of violating or conspiring to violate Section 38 of the Arms Export Control Act (''AECA'') (22 U.S.C. 2778).

EFFECTIVE DATE: Date of conviction as specified for each person.

FOR FURTHER INFORMATION CONTACT: David Trimble, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State (202) 663–2700.

SUPPLEMENTARY INFORMATION: Section 38(g)(4) of the AECA, 22 U.S.C. 2778, prohibits licenses and other approvals for the export of defense articles or defense services to be issued to persons, or any party to the export, who have been convicted of violating certain statutes, including the AECA.

In implementing this section of the AECA, the Assistant Secretary for Political-Military Affairs is authorized by Section 127.7 of the ITAR to prohibit any person who has been convicted of violating or conspiring to violate the AECA from participating directly or indirectly in the export of defense

articles, including technical data or in the furnishing of defense services for which a license or other approval is required. This prohibition is referred to as ''statutory debarment.''

Statutory debarment is based solely upon conviction in a criminal proceeding, conducted by a United States Court, and as such the administrative debarment proceedings outlined in Part 128 of the ITAR are not applicable.

The period for debarment will be determined by the Assistant Secretary for Political-Military Affairs based on the underlying nature of the violations, but will generally be for three years from the date of conviction. At the end of the debarment period, licensing privileges may be reinstated only at the request of the debarred person following the necessary interagency consultations, after a thorough review of the circumstances surrounding the conviction, and a finding that appropriate steps have been taken to mitigate any law enforcement concerns, as required by Section 38(g)(4) of the AECA. It should be noted, however, that unless licensing privileges are reinstated, the person remains debarred.

Department of State policy permits debarred persons to apply to the Director of Defense Trade Controls Compliance for reinstatement beginning one year after the date of the debarment, in accordance with Section 38(g)(4) of the AECA and Section 127.11(b) of the ITAR. Any decision to grant reinstatement can be made only after the statutory requirements under Section 38(g)(4) of the AECA have been satisfied.

Exceptions, also known as transaction exceptions, may be made to this debarment determination on a case-by-base basis at the discretion of the Assistant Secretary of State for Political-Military Affairs. However, such an exception would be granted only after a full review of all circumstances, paying particular attention to the following factors: whether an exception is warranted by overriding U.S. foreign policy or national security interests; whether an exception would further law enforcement concerns that are consistent with the foreign policy or national security interests of the United States; or whether other compelling circumstances exist that are consistent with the foreign policy or national security interests of the United States, and that do not conflict with law enforcement concerns. Even if exceptions are granted, the debarment continues until subsequent reinstatement.

Pursuant to Section 38 of the AECA and Section 127.7 of the ITAR, the Assistant Secretary of State for Political-Military Affairs has statutorily debarred the following persons for a period of three years following the date of their AECA conviction:

(1) Guillermo Cardoso-Arias, April 1, 2005, U.S. District Court, Southern District of Florida (Ft. Lauderdale), Case #: 0:04CR60262–COHN

(2) Davilyn, Inc., June 27, 2005, U.S. District Court, Central District of California (Los Angeles), Case #: CR 05–00432–RMT

(3) Carlos Gamarra-Murillo, August 9, 2005, U.S. District Court, Middle District of Florida (Tampa), Case #: 8:04–CR–349–T–27EAJ

(4) Xiuwen Liang also known as (a.k.a.) Jennifer Liang and Jennifer Zhuang, April 14, 2005, U.S. District Court, Central District of California (Los Angeles), Case #: CR03–138–SVW

(5) Jinghua Zhuang a.k.a. Jackey Zhuang, January 6, 2004, U.S. District Court, Central District of California (Los Angeles), Case #: CR03–138–SVW.

As noted above, at the end of the three-year period, the above named persons/entities remain debarred unless licensing privileges are reinstated.

Debarred persons are generally ineligible to participate in activity regulated under the ITAR (see *e.g.,* sections 120.1(c) and (d), and 127.11(a)). The Department of State will not consider applications for licenses or requests for approvals that involve any person who has been convicted of violating or of conspiring to violate the AECA during the period of statutory debarment. Persons who have been statutorily debarred may appeal to the Under Secretary for Arms Control and International Security for reconsideration of the ineligibility determination. A request for reconsideration must be submitted in writing within 30 days after a person has been informed of the adverse decision, in accordance with 22 CFR 127.7(d) and 128.13(a).

This notice is provided for purposes of making the public aware that the persons listed above are prohibited from participating directly or indirectly in any brokering activities and in any export from or temporary import into the United States of defense articles, related technical data, or defense services in all situations covered by the ITAR. Specific case information may be obtained from the Office of the Clerk for the U.S. District Courts mentioned above and by citing the court case number where provided.

This notice involves a foreign affairs function of the United States encompassed within the meaning of the military and foreign affairs exclusion of the Administrative Procedure Act. Because the exercise of this foreign affairs function is discretionary, it is excluded from review under the Administrative Procedure Act.

Dated: November 7, 2005.

John Hillen,

Assistant Secretary for Political-Military Affairs, Department of State.

[FR Doc. 05–22721 Filed 11–15–05; 8:45 am]

BILLING CODE 4710–25–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments Concerning Compliance With Telecommunications Trade Agreements

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of request for public comment and reply comment.

SUMMARY: Pursuant to section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3106) (''section 1377''), the Office of the United States Trade Representative (''USTR'') is reviewing and requests comments on: The operation, effectiveness, and implementation of and compliance with WTO agreements affecting market opportunities for telecommunications products and services of the United States; the telecommunications provisions of the North American Free Trade Agreement (''NAFTA''), the Chile, Singapore, and Australia Free Trade Agreements (''FTA'') and any other FTA coming into force on or before January 1, 2006; and other telecommunications trade agreements. The USTR will conclude the review by March 31, 2006.

DATES: Comments are due by noon on December 9, 2005 and Reply Comments by noon on January 6, 2006.

ADDRESSES: Gloria Blue, Executive Secretary, Trade Policy Staff Committee, ATTN: Section 1377 Comments, Office of the United States Trade Representative, 1724 F Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Arrow Augerot, Office of Industry, Market Access, and Telecommunications (202) 395–6099; or Amy Karpel, Office of the General Counsel (202) 395–5804.

SUPPLEMENTARY INFORMATION: Section 1377 requires the USTR to review annually the operations and effectiveness of all U.S. trade agreements regarding

telecommunications products and services of the United States that are in force with respect to the United States. The purpose of the review is to determine whether any act, policy, or practice of a country that has entered into a telecommunications trade agreement with the United States is inconsistent with the terms of such agreement or otherwise denies to U.S. firms, within the context of the terms of such agreements, mutually advantageous market opportunities. For the current review, the USTR seeks comments on:

(1) Whether any WTO member is acting in a manner that is inconsistent with its commitments under WTO agreements affecting market opportunities for telecommunications products and services, *e.g.,* the WTO General Agreement on Trade in Services (''GATS''), including the Annex on Telecommunications and any scheduled commitments including the Reference Paper on Pro-Competitive Regulatory Principles;

(2) Whether Canada or Mexico has failed to comply with its telecommunications commitments or obligations under NAFTA;

(3) Whether Chile, Singapore, or Australia, or any other FTA partner with an Agreement that comes into force on or before January 1, 2006 has failed to comply with its telecommunications commitments or obligations under the respective FTA between the United States and that country (see *http://www.ustr.gov/Trade_Agreements/Section_Index.html* for U.S. FTAs);

(4) Whether other countries have failed to comply with their commitments under additional telecommunications agreements with the United States, *e.g.,* Mutual Recognition Agreements (MRAs) for Conformity Assessment of Telecommunications Equipment (see *http://www.tcc.mac.doc.gov* for a collection of trade agreements, including ones related to telecommunications); and

(5) Whether there remain outstanding issues from previous section 1377 reviews on those countries or issues previously cited (see *http://www.ustr.gov/Trade_Sectors/Telecom-E-commerce/Section_1377/Section_Index.html* for the 2005 review);

Public Comment and Reply Comment: Requirements for Submission

All comments must be in English, identify on the first page of the comments the telecommunications trade agreement(s) discussed therein, and be submitted by noon on December 16, 2005. Reply comments must also be in English and be submitted by noon on January 13, 2006. Reply comments should only address issues raised by the comments.

In order to ensure the most timely and expeditious receipt and consideration of comments and reply comments, USTR has arranged to accept submissions in electronic format (e-mail). Comments should be submitted electronically to *FR0502@ustr.eop.gov.* An automatic reply confirming receipt of e-mail submission will be sent. E-mail submissions in Microsoft Word or Corel WordPerfect are preferred. If a word processing application other than those two is used, please include in your submission the specific application used. For any document submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. Filers must also submit a public version of their comments. The file name of the public version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or reply comments. Interested persons who make submissions electronically should not provide separate cover letters; rather, information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself and not as separate files. All non-confidential comments and reply comments will be placed on the USTR Web site, *http://www.USTR.gov*, and in the USTR Reading Room for inspection shortly after the filing deadline, except business confidential information exempt from public inspection in accordance with 15 CFR 2003.6.

We strongly urge use of the electronic filing procedures, if at all possible. If an e-mail submission is impossible, 15 copies of both the business confidential and the public versions must be delivered via private commercial courier, and arrangements must be made with Ms. Blue prior to delivery for their receipt. Ms. Blue should be contacted at (202) 395–3475. Because comments and reply comments will be posted on USTR's Web site, those persons not availing themselves of electronic filing must submit their 15 copies with a diskette.

An appointment to review the comments may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday, and is located in Room 3 of 1724 F Street, NW.

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

[FR Doc. 05–22749 Filed 11–15–05; 8:45 am]

BILLING CODE 3190–W6–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

United States-Israel Free Trade Area Implementation Act; Designation of Qualifying Industrial Zones

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

DATES: This provision will become effective upon publication.

SUMMARY: Under the United States-Israel Free Trade Area Implementation Act of 1985 (''IFTA Act''), articles of qualifying industrial zones encompassing portions of Israel and Jordan or Israel and Egypt are eligible to receive duty-free treatment. Effective upon publication of this notice, the United States Trade Representative, pursuant to authority delegated by the President, is designating the Central Delta zone of Egypt as a qualifying industrial zone and expanding the already-designated Greater Cairo and Suez Canal qualified industrial zones under the IFTA Act.

FOR FURTHER INFORMATION CONTACT: Edmund Saums, Director for Middle East Affairs, (202) 395–4987, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508.

SUPPLEMENTARY INFORMATION: Pursuant to authority granted under section 9 of the IFTA Act, as amended (19 U.S.C. 2112 note), Presidential Proclamation 6955 of November 13, 1996 (61 FR 58761) proclaimed certain tariff treatment for articles of the West Bank, the Gaza Strip, and qualifying industrial zones. In particular, the Presidential Proclamation modified general notes 3 and 8 of the Harmonized Tariff Schedule of the United States: (a) To provide duty-free treatment to qualifying articles that are the product of the West Bank, the Gaza Strip, or a qualifying industrial zone and are entered in accordance with the provisions of section 9 of the IFTA Act; (b) to provide that articles of Israel may be treated as though they were articles directly shipped from Israel for the purposes of the United States-Israel Free

Trade Area Agreement (''the Agreement'') even if shipped to the United States from the West Bank, the Gaza Strip, or a qualifying industrial zone, if the articles otherwise meet the requirements of the Agreement; and (c) to provide that the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the cost or value of materials produced in Israel under section 1(c)(i) of Annex 3 of the Agreement and that the direct costs of processing operations performed in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the direct costs of processing operations performed in Israel under section 1(c)(ii) of Annex 3 of the Agreement.

Section 9(e) of the IFTA Act defines a ''qualifying industrial zone'' as an area that ''(1) encompasses portions of the territory of Israel and Jordan or Israel and Egypt; (2) has been designated by local authorities as an enclave where merchandise may enter without payment of duty or excise taxes; and (3) has been specified by the President as a qualifying industrial zone.'' Presidential Proclamation 6955 delegated to the United States Trade Representative the authority to designate qualifying industrial zones.

The United States Trade Representative has previously designated qualifying industrial zones under Section 9 of the IFTA Act on March 13, 1998 (63 FR 12572), March 19, 1999 (64 FR 13623), October 15, 1999 (64 FR 56015), October 24, 2000 (65 FR 64472), December 12, 2000 (65 FR 77688), June 15, 2001 (66 FR 32660), January 28, 2004 (69 FR 4199) , and December 29, 2004 (69 FR 78094).

The governments of Israel and Egypt jointly requested in a letter submitted to the United States Trade Representative on August 24, 2005, the designation as a qualifying industrial zone of areas comprising the Central Delta zone, as well as the expansion of the already designated Greater Cairo and Suez Canal qualified industrial zones. The names and locations of the factories comprising the Central Delta zone and the expanded areas of the Greater Cairo zone and Suez Canal zone are specified on maps and materials submitted by Egypt and Israel and on file with the Office of the U.S. Trade Representative. Israel and Egypt have agreed that merchandise may enter, without payment of duty or excise taxes, areas under their respective customs control that comprise the Central Delta zone, Greater Cairo zone and Suez Canal zone. Further, the operation and administration of these zones are provided for in the previously agreed ''Protocol between the Government of the State of Israel and the Government of the Arab Republic of Egypt On Qualifying Industrial Zones.'' Accordingly, the Central Delta zone, Greater Cairo zone and Suez Canal zone meet the criteria under sections 9(e)(1) and (2) of the IFTA Act.

Therefore, pursuant to the authority delegated to me by Presidential Proclamation 6955, I hereby designate the areas occupied by the factories that comprise the Central Delta zone and the expanded Greater Cairo and Suez Canal zones as specified on maps and materials received from Egypt and Israel, as qualifying industrial zones under section 9 of the IFTA Act, effective upon the date of publication of this notice, applicable to articles shipped from these qualifying industrial zones after such date.

Rob Portman,

United States Trade Representative.

[FR Doc. 05–22750 Filed 11–15–05; 8:45 am]

BILLING CODE 3190–W6–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular 25–17A Revision, Transport Airplane Cabin Interiors Crashworthiness Handbook

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed advisory circular (AC) 25–17A revision and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular (AC) revision that sets forth acceptable methods of compliance with Title 14, Code of Federal Regulations (14 CFR), part 25, concerning the crashworthiness requirements as applied to cabin interiors. Like all ACs, it is not regulatory but provides guidance for applicants in demonstrating compliance with the objective safety standards set forth in part 25. This notice is necessary to give all interested persons an opportunity to present their views on the proposed AC.

DATES: Comments must be received on or before March 16, 2006.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Attention: Jayson Claar, Airframe/Cabin Safety, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW, Renton, WA 98055–4056. Comments may be inspected at the above address between 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jayson Claar at telephone number 425–227–2194; fax number 425–227–1232.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed AC revision by submitting such written data, views, or arguments, as they may desire. Commenters should identify AC 25–17A and submit comments, in duplicate, to the address specified above. The Transport Airplane Directorate will consider all communications received on or before the closing date for comments before issuing the final AC. The proposed AC revision can be found and downloaded from the Internet at *http://www.airweb.faa.gov/rgl* under ''Draft Advisory Circulars.'' A paper copy or a CD ROM (Adobe Acrobat Reader required) of the proposed AC may be obtained by contacting the person named above under the caption **FOR FURTHER INFORMATION CONTACT.** Because of the large size of this proposed AC (approximately 860 pages) and the time necessary for copying the document, expect extra time for fulfilling requests for paper copies.

Discussion

The proposed AC 25–17A revision contains guidance pertinent to the cabin safety and crashworthiness type certification requirements of part 25 as amended by Amendments 25–1 through 25–112. Previously, two ACs on this subject have been available to the public:

- AC 25–17 was issued on 7/15/91. It covers Amendments 25–1 through 25–59.
- A proposed AC 25–17A revision was published on 10/7/99, for public comment. Itcovered Amendments 25–1 through 25–70. That revision was never issued as a final document.

Several commentors to the 1999 draft revision requested that the format of the AC bechanged to repeat the complete regulatory text and all of the applicable guidance material at eachamendment level. The FAA agrees with those commentors and has revised the format of thisproposed revision to the AC to implement that change. This change, however, significantlyincreases the size of this document.

The formats of the current version of the AC issued in 1991, and the 1999 proposedrevision presented the entire regulatory text and applicable guidance only when any regulatorysection is first included in the AC. For subsequent

amendments to the section, only the revisedrule text and additional guidance was included. Therefore, when looking for all the guidancerelated to a regulatory section at a recent amendment level, the reader must go through all of theamendment levels for that section. The same applies to determining the entire text for any regulatory section, e.g., § 25.807.

Therefore, this proposed AC 25–17A revision provides, for each crashworthiness section,the complete regulatory text and associated guidance for each relevant amendment, inchronological order. Those paragraphs changed by the amendment are enclosed within [ ]. Atthe end of each guidance paragraph, the first applicable amendment level is given within ( ).

Including the complete regulation at each amendment level; all of the guidance materialat each amendment level, including guidance from Amendments 25–1 through 25–112; and all of the new appendices, results in the document increasing to about 860 pages. The existing AC 25–17 includes guidance from Amendments 25–1 through 25–59 (approximately one-half thenumber of amendments) and is 198 pages. Compared with the total size of this proposedAC 25–17A revision, the amount of changes is very small.

To assist in reviewing the proposed AC, the FAA identifies the additions/changes madeto the guidance by highlighting the text changes the first time they appear. The baseline foridentifying the changes to the guidance is the existing AC 25–17, dated 7/15/91. Theadditions/changes are broken down into four categories, each represented in a different highlightcolor. Minor changes to improve clarity, understanding, and grammar are not highlighted.

The categories and colors are:

- Yellow highlight text (Yellow highlight)—Additions/changes to the guidance included inthe 1999 version of the AC that was published for comment AND the changes made asthe result of public comments received on that draft AC.
- Green highlight text—Additions/changes to the guidance that havebeen through the FAA policy development process.
- Blue highlight text—Additions/changes to the guidance made as the result of a change in the regulations.
- Purple highlight text—Additions/changes to the guidance that are new,and have not been through the public process.

Reviewers of the draft AC are encouraged to focus their attention on the highlighted text,which represents the revised or new guidance compared to the existing released version of thisAC. However, if comments are received on guidance that is in AC 25–17, they will reviewed and considered as well.

The methods and procedures described in this proposed AC revision have evolved over manyyears. This proposed AC revision represents one acceptable means, but not the only means, ofcompliance pertinent to the associated requirements at the indicated amendment levels.

Issued in Renton, Washington, on November 4, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–22651 Filed 11–15–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review, Request for Comments; Renewal of an Approved Information Collection Activity, Agricultural Aircraft Operator Certificate Application

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) renewal of a current information collection. Standards have been established for the operation of agricultural aircraft and for the dispensing of chemicals, pesticides, and toxic substances. Information collected shows applicant compliance and eligibility for certification by FAA.

DATES: Please submit comments by January 17, 2006.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895, or by e-mail at: *Judy.Street@faa.gov*.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Agricultural Aircraft Operator Certificate Application.

Type of Request: Renewal of an approved collection.

OMB Control Number: 2120–0049.

Forms(s): FAA Form 8710–0049.

Affected Public: A total of 3,980 Respondents.

Frequency: The information is conducted on an as-needed basis.

Estimated Average Burden Per Response: Approximately 3.5 hours per response.

Estimated Annual Burden Hours: An estimated 14,037 hours annually.

Abstract: Standards have been established for the operation of agricultural aircraft and for the dispensing of chemicals, pesticides, and toxic substances. Information collected shows applicant compliance and eligibility for certification by FAA.

ADDRESSES: Send comments to the FAA at the following address: Ms. Judy Street, Room 612, Federal Aviation Administration, Standards and Information Division, ABA–20, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on November 8, 2005.

Judith D. Street,

FAA Information Collection Clearance Officer, Information Systems and Technology Services Staff, ABA–20.

[FR Doc. 05–22649 Filed 11–15–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review, Request for Comments; Renewal of an Approved Information Collection Activity, Suspected Unapproved Parts Notification

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) renewal of a current information collection. The information collected on the FAA Form 8120–11 will be reported voluntarily by manufacturers, repair stations, aircraft owner/operators, air carriers, and the general public who

wish to report suspected ''unapproved'' parts to the FAA for review. The information will be used to determine if an ''unapproved'' part investigation is warranted.

DATES: Please submit comments by January 17, 2006.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895, or by e-mail at: *Judy.Street@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Suspected Unapproved Parts Notification.

Type of Request: Renewal of an approved collection.

OMB Control Number: 2120–0552.

Form(s): FAA Form 8120–11.

Affected Public: A total of 400 respondents.

Frequency: The information is conducted on an as-needed basis.

Estimated Average Burden Per Response: Approximately 9 minutes per response.

Estimated Annual Burden Hours: An estimated 60 hours annually.

Abstract: The information collected on the FAA Form 8120–11 will; be reported voluntarily by manufacturers, repair stations, aircraft owner/operators, air carriers, and the general public who wish to report suspected ''unapproved'' parts to the FAA for review. The information will be used to determine if an ''unapproved'' part investigation is warranted.

ADDRESSES: Send comments to the FAA at the following address: Ms. Judy Street, Room 612, Federal Aviation Administration, Standards and Information Division, ABA–20, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on November 8, 2005.

Judith D. Street,

FAA Information Collection Clearance Office, Information Systems and Technology Services Staff, ABA–20.

[FR Doc. 05–22650 Filed 11–15–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) Executed by the Federal Aviation Administration (FAA) for the Evaluation of Environmental Impacts Associated With a Proposed Corporate Hangar Construction at Cincinnati Municipal Airport-Lunken Field, Located in Cincinnati, OH

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of availability of an EA and FONSI executed by the FAA for the evaluation of environmental impacts associated with a proposed corporate hangar construction at Cincinnati Municipal Airport-Lunken Field, located in Cincinnati, Ohio.

SUMMARY: The FAA is making available an EA and FONSI for the evaluation of environmental impacts associated with a proposed corporate hangar construction at Cincinnati Municipal Airport-Lunken Field, located in Cincinnati, Ohio.

Point of Contact: Mr. Brad Davidson, Environmental Protection Specialist, FAA Great Lakes Region, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, MI 48174, (734) 229–2900.

SUPPLEMENTARY INFORMATION: The FAA is making available an EA and FONSI for the evaluation of environmental impacts associated with a proposed corporate hangar construction at Cincinnati Municipal Airport-Lunken Field, located in Cincinnati, Ohio. The purpose of the EA and FONSI was to evaluate potential environmental impacts arising from the proposed airport improvement project involving the construction of a corporate hangar on airport owned land.

These documents will be available during normal business hours at the following location: FAA Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, MI 48174.

Due to current security requirements, arrangements must be made with the point of contact prior to visiting this office.

Issued in Romulus, Michigan, October 26, 2005.

Irene R. Porter,

Manager, Detroit Airport District Office, FAA, Great Lakes Region.

[FR Doc. 05–22652 Filed 11–15–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2005–22660]

Hours of Service of Drivers: United States Postal Service Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application for exemption from the hours-of-service (HOS) requirements from the United States Postal Service (USPS) on behalf of motor carriers that transport mail under contract for USPS. USPS requests that some of its contract motor carriers be allowed to operate under the HOS rules in effect prior to January 4, 2004. USPS believes the exemption would likely achieve a level of safety equivalent to, or greater than, the level achieved under the HOS rules applicable to operators of property-carrying vehicles rules after January 4, 2004. FMCSA requests public comment on the USPS application for exemption.

DATES: Comments must be received on or before December 16, 2005.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FMCSA–2005–22660 using any of the following methods:

- *Web site: http://dmses.dot.gov/submit/.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading for further information.

Docket: For access to the docket to read background documents or

comments received, go to *http://dms.dot.gov* at any time or Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The DMS is available 24 hours each day, 365 days each year. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477, Apr. 11, 2000). This statement is also available at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, MC–PSD, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Telephone: 202–366–4009. E-mail: *MCPSD@fmcsa.dot.gov*.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (Pub. L. 105–178, 112 Stat. 107, June 9, 1998) amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from motor carrier safety regulations. On December 8, 1998, the Federal Highway Administration's Office of Motor Carriers, the predecessor to FMCSA, published an interim final rule implementing sec. 4007 (63 FR 67600). On August 20, 2004, FMCSA published a final rule (69 FR 51589) on this subject. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The agency must also provide an opportunity for public comment on the request.

The agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the agency denies the request, it must state the reason for doing so. If the agency grants the exemption, the notice must specify the person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is being granted. The notice must also specify the effective period of the exemption (up to 2 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

The Federal HOS rules are generally applicable to motor carriers and drivers operating commercial motor vehicles, as defined in 49 CFR 390.5, in interstate commerce. However, transportation performed by Federal, State or local government is exempt from requirements under 49 CFR parts 390 through 399, including all HOS requirements under 49 CFR part 395 [§ 390.3(f)(2)]. Since USPS is an independent agency of the executive branch of the United States government, transportation performed by USPS qualifies for the § 390.3(f)(2) exemption. Nonetheless, any motor carrier under contract with the USPS to transport its mail interstate—but which retains full responsibility for its CMVs, such that the transportation is not considered as performed by the USPS—remains subject to 49 CFR parts 300–399, including the HOS rules. The USPS contracts with motor carriers to perform interstate delivery of U.S. mail under such conditions, and has requested exemption from FMCSA's current HOS rules, allowing some of these motor carriers and drivers to operate under those HOS rules in effect prior to January 4, 2004.

USPS requests the exemption apply to an unspecified number of motor carriers operating under approximately 5,100 separate contracts. USPS did not specify the number of drivers of property-carrying vehicles to be allowed to operate under the HOS requirements in effect prior to January 4, 2004. The HOS limits requested under the exemption for such drivers would be the same as current HOS limits for drivers of passenger-carrying vehicles.

USPS states the motor carriers under contract conduct short-haul operations with an average delivery route of 61-miles roundtrip. USPS describes the drivers' schedules as ''split shift,'' but does not provide any details about the typical work schedule for drivers working on the contracted routes. Under the terms of the USPS contract, drivers are required to arrive and depart from postal facilities on schedule since deviation from the schedule would result in congestion at USPS trailer yards.

USPS believes the exemption would achieve a level of safety equivalent to, or greater than, the level of safety obtained under the current 14-hour rule (which prohibits operators of property-carrying vehicles from driving after the 14th hour of coming on duty) because these drivers would be able to return home at the end of each work day rather than having to stay away from home overnight.

A copy of the USPS exemption application is available for review in the docket for this notice.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on USPS's application for exemption from the 49 CFR part 395 HOS requirements. The agency will consider all comments received by close of business on December 16, 2005. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: November 8, 2005.

Annette M. Sandberg,

Administrator.

[FR Doc. 05–22648 Filed 11–15–05; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 226X); STB Docket No. AB–654X]

Union Pacific Railroad Company—Abandonment Exemption—in Cameron County, TX; Brownsville & Rio Grande International Railroad Company—Discontinuance of Service Exemption—in Cameron County, TX

The Union Pacific Railroad Company (UP) and Brownsville & Rio Grande International Railroad Company (B&RG) have jointly filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and*

Discontinuances of Service for UP to abandon, and for B&RG to discontinue service over, 2.2 miles of railroad between milepost 0.00, near UP Main Switch, and milepost 2.20, near Arthur Street, in Cameron County, TX.[1] The line traverses United States Postal Service Zip Codes 78520 and 78521.

UP and B&RG have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements of 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether these conditions adequately protect affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on December 16, 2005, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 28, 2005. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 6, 2005, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: Mack H. Shumate, Jr., 101 North Wacker Drive, Room 1920, Chicago, IL 60606; and William L. Rentfro, The Rentfro Faulk Law Firm, LLP, 185 E. Ruben M. Torres, Sr. Blvd., Brownsville, TX 78520.

If the verified notice contains false or misleading information, the exemptions are void *ab initio.*

UP and B&RG have filed environmental and historic reports which address the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by November 21, 2005. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by November 16, 2006, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at ''*http://www.stb.dot.gov.*''

Decided: November 4, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–22519 Filed 11–15–05; 8:45 am]

BILLING CODE 4915–01–P

[1] The October 27, 2005 filing was amended on November 3, 2005.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemptions' effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

[3] Each OFA must be accompanied by the filing fee, which currently is set at $1,200. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 10, 2005.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before December 16, 2005 to be assured of consideration.

Departmental Office (DO)

OMB Number: 1505–0016.

Type of Review: Revision.

Title: Treasury International Capital Form BQ–1, ''Report of Customers'' U.S. Dollar Claims on Foreigners''.

Form: International Capital Form BQ–1.

Description: Form BQ–1 is required by law and is designed to collect timely information on international portfolio capital movements, including U.S. dollar claims of customers of depository institutions, bank and financial holding companies, brokers and dealers vis-á-vis foreigners. The information is necessary in the computation of the U.S. balance of payments accounts and the U.S. international investment position, and in the formulation of U.S. international financial and monetary policies.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 909 hours.

OMB Number: 1505–0017.

Type of Review: Revision.

Title: Treasury International Capital Form BC/BC (SA) ''Report of U.S. Dollar Claims of Depository Institutions, Brokers and Dealers on Foreigners''.

Form: International Capital Form BC/BC (SA).

Description: Form BC/BC(SA) is required by law and is designed to collect timely information on international portfolio capital movements, including own U.S. dollar claims of depository institutions, bank and financial holding companies, brokers and dealers vis-á-vis foreigners. The information is necessary in the computation of the U.S. balance of payments accounts and the U.S. international investment position, and in the formulation of U.S. international financial and monetary policies.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 33,804 hours.

OMB Number: 1505–0018.

Type of Review: Revision.

Title: Treasury International Capital Form BL–2/BL–2(SA) ''Report of Customers'' U.S. Dollar Liabilities to Foreigners''.

Form: International Capital Form BL–2/BL–2(SA).

Description: Form BL–2/BL–2(SA) is required by law and is designed to collect timely information on international portfolio capital movements, including U.S. dollar liabilities of customers of depository institutions, bank and financial holding companies, brokers and dealers vis-á-vis foreigners. The information is necessary in the computation of the U.S. balance of payments accounts and the U.S. international investment position, and in the formulation of U.S. international financial and monetary policies.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 9,000 hours.

OMB Number: 1505–0019.

Type of Review: Revision.

Title: Treasury International Capital Form BL–1/BL–1(SA) ''Report of U.S. Dollar Liabilities of Depository Institutions, Brokers and Dealers to Foreigners'.

Form: International Capital Form BL–1/BL–1(SA).

Description: Form BL–1/BL–1(SA) is required by law and is designed to collect timely information on international portfolio capital movements, including U.S. dollar liabilities of depository institutions, bank and financial holding companies, brokers and dealers vis-á-vis foreigners. The information is necessary in the computation of the U.S. balance of payments accounts and the U.S. international investment position, and in the formulation of U.S. international financial and monetary policies.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 31,278 hours.

OMB Number: 1505–0020.

Type of Review: Revision.

Title: Treasury International Capital Form BQ–2 ''Part 1—Report of Foreign Currency Liabilities and Claims of Depository Institutions, Brokers and Dealers, and of their Domestic Customers vis-á-vis Foreigners; Part 2—Report of Customers' Foreign Currency Liabilities to Foreigners''.

Form: International Capital Form BQ–2.

Description: Form BQ–2 is required by law and is designed to collect timely information on international portfolio capital movements, including liabilities and claims of depository institutions, bank and financial holding companies, brokers and dealers and their customers' liabilities vis-á-vis foreigners, that are denominated in foreign currencies. The information is necessary in the computation of the U.S. balance of payments accounts and the U.S. international investment position, and in the formulation of U.S. international financial and monetary policies.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 3,564 hours.

OMB Number: 1505–0024.

Type of Review: Revision.

Title: Treasury International Capital Form CQ–1 ''Report of Financial Liabilities to and Financial Claims on Foreign Residents'' and Form CQ–2 ''Report of Commercial Liabilities to, and Commercial Claims on Unaffiliated Foreign Residents''.

Form: International Capital Form CQ1 and CQ–2.

Description: Forms CQ–1 and CQ–2 are required by law to collect timely information on international portfolio capital movements, including data on financial and commercial liabilities to, and claims on unaffiliated foreigners and certain affiliated foreigners held by non-banking enterprises in the U.S. This information is necessary in the computation of the U.S. balance of payments accounts and the U.S. international investment position, and in the formulation of U.S. international financial and monetary policies.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 5,746 hours.

OMB Number: 1505–0149.

Type of Review: Extension.

Title: 31 CFR Part 128 Reporting of International Capital and Foreign Currency Transactions and Positions.

Description: 31 CFR part 128 establishes general guidelines for reporting on U.S. claims on and liabilities to, foreigners; on transactions in securities with foreigners; and on monetary reserves of the U.S. It also establishes guidelines for reporting on the foreign currency transactions of U.S. persons. It includes a recordkeeping requirement in section 128.5.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 4,950 hours.

OMB Number: 1505–0189.

Type of Review: Extension.

Title: Treasury International Capital Form BQ–3 ''Report of Maturities of Selected Liabilities of Depository Institutions, Brokers and Dealers to Foreigners.

Form: International Capital Form BQ–3.

Description: Form BQ–3 is required by law and is designed to collect timely information on international portfolio capital movements, including maturities of selected U.S. dollar and foreign currency liabilities of depository institutions, bank and financial holding companies, brokers and dealers to foreigners. This information is necessary in the computation of the U.S. balance of payments accounts and the U.S. international investment position and in the formulation of U.S. international financial and monetary policies.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 1,312 hours.

Clearance Officer: Dwight Wolkow, (202) 622–1276, Department of Treasury, Room 4410–1440NYA, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. 05–22706 Filed 11–15–05; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, December 8, 2005 from 1 p.m. to 2 p.m. ET.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section

10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be held Thursday, December 8, 2005, from 1 p.m. to 2 p.m. ET via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include: Various IRS issues.

Dated: November 7, 2005.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E5–6303 Filed 11–15–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 3 Taxpayer Advocacy Panel (Including the States of Florida, Georgia, Alabama, Mississippi, Louisiana, Arkansas, and Puerto Rico)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 3 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, December 6, 2005 from 11 a.m. to 12 p.m. ET.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 3 Taxpayer Advocacy Panel will be held Tuesday, December 6, 2005, from 11 a.m. to 12 p.m. ET via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include: Various IRS issues.

Dated: November 7, 2005.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E5–6304 Filed 11–15–05; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 70, No. 220

Wednesday, November 16, 2005

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patents and Patent Applications Concerning Bacterial Superantigen Vaccines

Correction

In notice document 05–21068 beginning on page 61261 in the issue of Friday, October 21, 2005, make the following correction:

On page 61262, in the first column, in the seventh line from the top, ''Application No. 10/757,687'' should read ''Application No. 10/767,687''.

[FR Doc. C5–21068 Filed 11–15–05; 8:45 am]

BILLING CODE 1505–01–D

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 16, 2005

COMMERCE DEPARTMENT

Industry and Security Bureau

Export administration regulations:

Commerce Control List—

Libya; license exception authorizing export or reexport to U.S. persons; published 11-16-05

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Virginia; correction; published 11-16-05

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Sulfosulfuron; published 11-16-05

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Interconnection—

Broadband access to Internet over wireline facilities; appropriate framework; published 10-17-05

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:

Tylosin; published 11-16-05

Food additives:

Vitamin D use as nutrient supplement in cheese and cheese products; published 11-16-05

HOMELAND SECURITY DEPARTMENT

Coast Guard

Regattas and marine parades:

Offshore Super Series Boat Race; published 11-10-05

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

White abalone and smalltooth sawfish; published 11-16-05

NUCLEAR REGULATORY COMMISSION

Organization, functions, and authority delegations:

Office of Information Services et al.; published 11-16-05

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; published 10-12-05

Aviointeriors S.p.A.; published 10-12-05

Boeing; published 10-12-05

Empresa Brasileira de Aeronautica S.A. (EMBRAER); published 10-12-05

COMMENTS DUE NEXT WEEK

AGENCY FOR INTERNATIONAL DEVELOPMENT

Assistance awards to U.S. non-Governmental organizations; marking requirements; Open for comments until further notice; published 8-26-05 [FR 05-16698]

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cotton classing, testing and standards:

Classification services to growers; 2004 user fees; Open for comments until further notice; published 5-28-04 [FR 04-12138]

Eggs, poultry, and rabbit products; inspection and grading:

Shell egg grading definition; comments due by 11-25-05; published 9-26-05 [FR 05-19087]

Spearmint oil produced in—

Far West; comments due by 11-22-05; published 9-23-05 [FR 05-19084]

AGRICULTURE DEPARTMENT

Food and Nutrition Service

Child nutrition programs:

Women, infants, and children; special supplement nutrition program—

Miscellaneous vendor-related provisions; comments due by 11-25-05; published 7-27-05 [FR 05-14873]

AGRICULTURE DEPARTMENT

Natural Resources Conservation Service

Reports and guidance documents; availability, etc.:

National Handbook of Conservation Practices; Open for comments until further notice; published 5-9-05 [FR 05-09150]

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Meetings; Sunshine Act; Open for comments until further notice; published 10-4-05 [FR 05-20022]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Environmental statements; notice of intent:

Western Pacific Fishery Management Council; comments due by 11-25-05; published 10-25-05 [FR 05-21301]

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleution Islands groundfish; comments due by 11-25-05; published 10-26-05 [FR 05-21385]

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

Semi-annual agenda; Open for comments until further notice; published 12-22-03 [FR 03-25121]

DEFENSE DEPARTMENT

Acquisition regulations:

Pilot Mentor-Protege Program; Open for comments until further notice; published 12-15-04 [FR 04-27351]

Civilian health and medical program of uniformed services (CHAMPUS):

TRICARE program—

Dental Program; National Defense Authorization Act changes (FY 2005); comments due by 11-21-05; published 9-21-05 [FR 05-18753]

Federal Acquisition Regulation (FAR):

Additional contract types for certain commercial services; comments due by 11-25-05; published 9-26-05 [FR 05-18965]

Time-and-materials and labor-hour contracts payments; comments due by 11-25-05; published 9-26-05 [FR 05-18964]

EDUCATION DEPARTMENT

Grants and cooperative agreements; availability, etc.:

Vocational and adult education—

Smaller Learning Communities Program; Open for comments until further notice; published 2-25-05 [FR E5-00767]

ENERGY DEPARTMENT

Meetings:

Environmental Management Site-Specific Advisory Board—

Oak Ridge Reservation, TN; Open for comments until further notice; published 11-19-04 [FR 04-25693]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Commercial and industrial equipment; energy efficiency program:

Test procedures and efficiency standards—

Commercial packaged boilers; Open for comments until further notice; published 10-21-04 [FR 04-17730]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric utilities (Fed. Power Act), natural gas companies (Natural Gas Act), Natural Gas Policy Act, and oil pipelines (Interstate Commerce Act):

Contested audit matters; disposition procedures; comments due by 11-22-05; published 11-1-05 [FR 05-21422]

Electric utilities (Federal Power Act):

Preventing undue discrimination and preference in transmission services; comments due by 11-22-05; published 9-23-05 [FR 05-19003]

ENVIRONMENTAL PROTECTION AGENCY

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Clause revisions; comments due by 11-25-05; published 10-25-05 [FR 05-21196]

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Constructive removal complaints; filing by administrative law judges; comments due by 11-25-05; published 10-26-05 [FR 05-21389]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):
- Additional contract types for certain commercial services; comments due by 11-25-05; published 9-26-05 [FR 05-18965]
- Time-and-materials and labor-hour contracts payments; comments due by 11-25-05; published 9-26-05 [FR 05-18964]

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:
- Insurance requirements; comments due by 11-21-05; published 9-21-05 [FR 05-18748]

NUCLEAR REGULATORY COMMISSION

Environmental statements; availability, etc.:
- Fort Wayne State Developmental Center; Open for comments until further notice; published 5-10-04 [FR 04-10516]

SECURITIES AND EXCHANGE COMMISSION

Securities:
- Client commission practices; interpretative guidance; comments due by 11-25-05; published 10-25-05 [FR 05-21247]

SMALL BUSINESS ADMINISTRATION

Disaster loan areas:
- Maine; Open for comments until further notice; published 2-17-04 [FR 04-03374]

OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Trade Representative, Office of United States

Generalized System of Preferences:
- 2003 Annual Product Review, 2002 Annual Country Practices Review, and previously deferred product decisions; petitions disposition; Open for comments until further notice; published 7-6-04 [FR 04-15361]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air carrier certification and operations:
- Flightdeck door monitoring and crew discreet alerting systems; comments due by 11-21-05; published 9-21-05 [FR 05-18806]

Airworthiness directives:
- Airbus; comments due by 11-21-05; published 9-21-05 [FR 05-18522]
- Boeing; comments due by 11-21-05; published 10-6-05 [FR 05-20077]
- British Aerospace; comments due by 11-21-05; published 9-21-05 [FR 05-18521]
- Cessna; comments due by 11-21-05; published 10-25-05 [FR 05-21309]
- Eurocopter France; comments due by 11-25-05; published 9-26-05 [FR 05-19148]
- Fokker; comments due by 11-21-05; published 10-21-05 [FR 05-21054]
- General Electric Co.; comments due by 11-23-05; published 10-24-05 [FR 05-21174]
- Gippsland Aeronautics Pty. Ltd.; comments due by 11-25-05; published 10-25-05 [FR 05-21176]

Class E airspace; comments due by 11-25-05; published 10-26-05 [FR 05-21321]

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Fuel economy standards:
- Light trucks; 2008-2011 model years; comments due by 11-22-05; published 8-30-05 [FR 05-17005]

Motor vehicle safety standards:
- Roof crush resistance; comments due by 11-21-05; published 8-23-05 [FR 05-16661]

TREASURY DEPARTMENT

Internal Revenue Service

Employment taxes and collection of income taxes at source:
- Federal Insurance Contributions Act; payments made for certain services; comments due by 11-25-05; published 8-26-05 [FR 05-16944]

Excise taxes:
- Pension excise taxes; Health Saving Accounts; employer comparable contributions; comments due by 11-25-05; published 8-26-05 [FR 05-16941]

Income taxes:
- Cost sharing arrangement; methods under section 482 to determine taxable income; public hearing
  - Correction; comments due by 11-25-05; published 9-28-05 [FR 05-19405]
- Space and ocean activities and communications; source of income; public hearing; comments due by 11-23-05; published 9-19-05 [FR 05-18265]
- Taxpayer Relief Act—
  - Roth IRAs; comments due by 11-21-05; published 8-22-05 [FR 05-16404]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 3057/P.L. 109–102

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Nov. 14, 2005; 119 Stat. 2172)

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